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BANDITS IN THE ROMAN EMPIRE*

> Remove justice and what are states but gangs of bandits on a large scale? And what are bandit gangs but kingdoms in miniature?[1]
>
> When they reached the place called the Skull they crucified him along with two bandits, one on the right and the other on the left . . . One of the bandits hanging there cursed him. "Are you not the Christ?", he said. "Then save yourself and us as well". But the other one spoke up and reproved him. "Have you no fear of God at all?", he said. "You received the same sentence as he did, but in our case we deserved it; we are paying for what we did. But this man has done nothing wrong". "Jesus", he said, "Remember me when you enter into your kingdom". "Yes, I promise you", Jesus replied, "today you will be with me in Paradise".[2]

A MAJOR PROBLEM IN ROMAN HISTORY IS THE ROLE OF VIOLENCE IN the making of Roman society, and in particular the relationship between individual men who wielded violent force and the Roman state. This is a difficult question because it necessarily entails consideration of the corollary problems of political legitimacy and the practical exercise of power. There are, of course, many aspects to this problem. The one on which I shall concentrate here is the inversion of the normal: the deployment of violence by men who were stigmatized by the Roman state as *latrones* or "bandits".[3] *Latrones* were

* I would like to thank Gabriel Herman, Keith Hopkins, Ian Newbould, Elizabeth Rawson and Richard Saller for helpful comments and criticisms made in the course of writing this article.

[1] Augustine, *City of God*, 4.4.

[2] Luke 29.33-43.

[3] This paper is primarily directed to the central problem of political legitimacy, and so does not treat many other aspects of banditry in the Roman empire that are not directly relevant to this question. Then again, certain highly detailed accounts of banditry in specific regional contexts, namely those of Isauria and Judaea, have been deliberately set aside for treatment separate of this article. Some of the general works on ancient brigandage which I have consulted but have not been specifically cited below include G. Barbieri, "Latrones", in E. de Ruggiero (ed.), *Dizionario epigrafico di antichità romane*, 4.15 (1947), pp. 460-6; A. D. Dmitriev, "The Phenomenon of *Latrones* as a Form of Class Conflict in the Roman Empire", *Vestnik drevneii istorii* (1951), no. 4, pp. 61-72 (in Russian); H. Düll and G. Mickwitz, "Strassenraub", in Pauly-Wissowa-Kroll, *Real-Encyclopädie der classischen Altertumswissenschaft* (hereafter *RE*) supplbd. vii (1940), cols. 1239-44; H. Fiehn, "Strassenraub", *RE* iv. 2 (1932), cols. 171-2; J. Gagé, "Les déchets de l'ordre impérial: irréguliers, aventuriers, et troupes de brigands", ch. 4.5, in his *Les classes sociales de l'empire romain* (Paris, 1964), pp. 143-8; R. Guenther, *Das Latrocinium als eine besondere Form des Widerstands der unterdrucken Klassen und Barbaren im römischen Sklavenhalterstaat während des Prinzipats* (Leipzig, 1953); G. Humbert, "Latrocinium", in Ch. Daremberg and E. Saglio (eds.), *Dictionnaire des antiquités grecques et romaines*, iii.2 (1904), pp. 991-2; R. Kleinfeller, "Grassatores", *RE* vii (1912), cols. 1829-30; R. MacMullen, "Brigandage", appendix B in his *Enemies of the Roman Order: Treason, Unrest and Alienation in the Empire* (Cambridge, Mass., 1967), pp. 255-68; C. E. Minor, "Brigand, Insurrectionist and Separatist Movements in the Later Roman Empire" (Univ. of Washington, Seattle, Ph.D. Thesis, 1971); G. Pfaff, "Latrocinium", *RE* xii (1925), cols. 978-80. Unfortunately I was not able to consult A. Bertôt, "Le brigandage dans l'occident romain sous le Haut-Empire" (Univ. de Bordeaux, Diplôme d'études supérieures d'histoire, July 1953).

men who threatened the social and moral order of the state by the use of private violence in pursuit of their aims. Within the broad definition of such men as bandits, E. J. Hobsbawm, the father of modern bandit studies, has proposed a special subtype, that of the "social bandit":

> The point about social bandits is that they are peasant outlaws whom the lord and the state regard as criminals, but who remain within peasant society, and are considered by their people as heroes, as champions, avengers, fighters for justice . . . and in any case as men to be admired, helped and supported.[4]

The Robin Hoods of popular folklore are characteristic social bandits, primitive rebels within and at the margin of peasant society. Anton Blok, among others, has criticized Hobsbawn's thesis of social banditry as a form of individual or minority rebellion; he thinks that in fact few bandits have been genuine figures of social protest. Behind the mirage of "the good thief", he argues, lies a reality dominated by violent anti-social men who are either wholly secessionist or who actively prey on the peasant populace whose interests they are supposed (in popular myth) to protect.[5] Hobsbawm is "unconvinced" by Blok's critique; he remains adamant in his claim that real social bandits have existed and are not just figments of popular imagination or mythical figures of peasant thought.[6]

Among his criteria for identifying social bandits, Hobsbawm places great emphasis on the *perception* of these men as something other than common criminals.[7] An obvious danger with this approach is

[4] E. J. Hobsbawm, *Bandits* (London, 1969; Penguin edn., Harmondsworth, 1972; all citations are from the latter edition), p. 17. Cf. E. J. Hobsbawm, "The Social Bandit", ch. 2 in his *Primitive Rebels: Studies in Archaic Forms of Social Movement in the 19th and 20th Centuries*, 3rd edn. (Manchester, 1971; repr. 1974), pp. 13-29; E. J. Hobsbawm, "Social Banditry", ch. 4 in H. A. Landsberger (ed.), *Rural Protest: Peasant Movements and Social Change* (New York, 1974), pp. 142-57.

[5] See A. Blok, "On Brigandage with Special Reference to Peasant Mobilization", *Sociologische Gids*, xviii (1971), pp. 208-16; A. Blok, "The Peasant and the Brigand: Social Banditry Reconsidered", *Comparative Studies in Society and Hist.*, xiv (1972), pp. 494-503, with the riposte by Hobsbawm, "Social Bandits: Reply", *ibid.*, pp. 503-5. Blok's critique is important because it is related to an evaluation of the historical role of the Mafia in Sicily and the real problem of its relationship to peasant exploitation. Although he refines some of the assumptions in Hobsbawm's thesis in his critique, P. O'Malley, "Social Bandits, Modern Capitalism and the Traditional Peasantry: A Critique of Hobsbawm", *Jl. Peasant Studies*, vi (1979), pp. 489-501, still accepts many of Hobsbawm's fundamental postulates (for example, the role of class) that are questioned in this paper.

[6] See Hobsbawm, "Social Bandits: Reply". In his new preface to *Bandits* (1972 edn.) he says that he remains "unconvinced" by Blok's criticisms. His reply, however, is a rather weak one, to the effect that ". . . there seems to be sufficient evidence for genuine Robin Hood behaviour by at least *some* bandits and careful readers of this book will observe that *I have not claimed that 'noble bandits' are common*" (p. 13, my italics). If this is the limited nature of Hobsbawm's claim, then he virtually admits what *he himself* understands to be Blok's position, namely that "the 'noble bandit' or Robin Hood is almost wholly 'mythical' and does not reflect how bandits actually behaved but rather how the common people *wished* such men would act".

[7] This is not the place to engage in an extended critique of Hobsbawm's work, but a few general observations should be made here. The first chapter of his general study (*Bandits*), which is devoted to the definition of a "social bandit", makes *perception* the critical element in the definition. Such men are "not *regarded* as simple

(cont. on p. 5)

that perceptions, like ideologies, can be deceptive; even oppressed peasants can be mistaken as to who is actually beneficial or destructive of their interests. And if perceptions differ, then which set of mental images is the historian to take as coherent with the realities of social exploitation? The following story, filtered through the upper-class lens of the late second-century physician Galen, highlights the problem:

> On another occasion we saw the skeleton of a bandit lying on rising ground by the roadside. He had been killed by some traveller repelling his attack. None of the local inhabitants would bury him, but in their hatred of him were glad enough to see his body consumed by the birds which, in a couple of days, ate his flesh, leaving the skeleton as if for medical demonstration.[8]

That story, embedded in a discourse on the merits of dissection, is a small warning. In it we find a graphic description of a hatred that went to the extreme of denying proper burial, the ultimate social penalty in the Roman world. The problem for the historian is twofold: is this case aberrant or the norm? And if the peasants' perceptions are correctly reported, is the robber therefore "not a social bandit"?

Because of these difficulties, and that of distinguishing social bandits from bandits *tout court*, I shall deal first in this article with banditry in general in the Roman world before attempting to grapple with the problem of social banditry. A consideration of the more general phenomenon within the context of a vast historical state, that of imperial Rome, should be able to offer new perspectives on the debate raised by Hobsbawm. Immediately the historian of imperial

(n. 7 cont.)
criminals by *public opinion*" (p. 17, my italics). Again, they are peasant outlaws "whom the lord and the state *regard* as criminals [but who] are *considered* by the people as heroes . . ." (*ibid.*). Hobsbawm then emphasizes (p. 18) that it is this perceptual relationship that is the criterion by which the social bandit is separated from the common criminal. The third chapter, on "The Noble Robber" (pp. 41 ff.), *begins* with the *image* and with *popular beliefs* in order to construct his model. Although some caveats are advanced (for example, that this only represents "what social bandits should be") and the very limited claim made that "genuine Robin Hoods have been known", these concessions are obscured in the subsequent treatment. The whole chapter is constructed with a methodology that proceeds from "myth" to "reality" with no clear break between the two (see, for example, his treatment of the act of personal injustice as a motivator, p. 43). In discussing justice and the bandit he begins with a postulate, cites legendary and anecdotal material, and then admits that behaviour was "not always in accord with this model" (p. 53). Yet how much it was "not in accord" is never fully explored. All the other chapters are similarly constructed so that it is somewhat startling to read at the beginning of the final chapter on "The Bandit as Symbol" that "We have so far looked at the reality of bandits and at their legend or myth *chiefly as a source of information about that reality* . . ." (p. 127, my italics), when precisely the opposite has been the case. The myths, legends and public opinions have been used, from the beginning, to construct "reality". Perhaps the most striking and worrysome admission appears earlier in the book (p. 56) where Hobsbawm states that if robbers of this type did not exist *then peasants would have to invent them*. Although Hobsbawm is perfectly aware of this possibility, his book never puts the hypothesis to a rigorous test.

[8] Galen, *On Anatomical Procedures*, 1.2 (Kühn, ii, 221-2), trans. C. Singer (Oxford, 1956), p. 3.

Rome begins his enquiry, however, he is confronted with technical problems concerning the identification of bandits in his source materials. The difficulties, as always, are rooted in the paucity of the ancient historian's data and in their peculiar biases. The common term in Latin used to designate a bandit is *latro* (plural *latrones*) and for the phenomenon of banditry, *latrocinium*. Roman writers, from jurists to novelists, however, did not indulge in the sort of sociological analysis we do. Hence almost every kind of violent opposition to established authority short of war was subsumed under the catch-all rubric of *latrocinium*, with little or no conscious differentiation of the subcategories of violence beneath that umbrella term.

The basic form of legitimate or statist violence defined by the Roman state's legal apparatus was that of warfare. The legal authorities gave formal recognition to the type of organized violence conducted by the Roman state itself, or directed against it by other states, by labelling it "war" or *bellum*. The general category of *bellum*, though it admitted of only one dominant or real type, had certain peripheral expressions that effectively dichotomized war into two broad subcategories. Wars could be waged by the state against inchoate, unstructured and socially inferior foes, in which case they were regarded as "bush" conflicts or irregular wars. The enemy in such conflict was often unrecognizable (in both senses of the word) and hence could only be defined by some *de facto* response by the state or by the sheer magnitude of the threat he posed to the state's armed force. A war of this type was usually qualified by some additional term that modified the assumption of a genuine conflict as, for example, with the term "slave" war (*bellum servile*).[9] The other type of war was the one that was recognized as genuine — a conflict between two legitimately established states, a battle between the armed forces of societies that shared manifest political structures and which fought according to recognized forms of combat. In this case, if any supplementary term was used in description the war was labelled "real" or "genuine", a *bellum iustum*.[10] Almost all other

[9] For example, Augustus, *Res gestae*, 5.34; Florus, *Epitome*, 2.7 (3.19.2); Pliny, *Panegyric*, 42.3; cf. Cicero, *Verrines*, 5.5, and the literature cited in n. 85 below.

[10] The phrase *bellum iustum*, much abused in this context, does not ordinarily mean "just" war. Every *bellum* was "just" by definition in so far as the state was concerned. *Iustum* basically signalled the distinction between regular and irregular conflicts. I do not think that there was any serious debate over "the just war" in pre-Christian antiquity, and certainly not one using the terminology *bellum iustum*. Nor do I wish to enter into a protracted discussion of the so-called fetial rite (for a description see Livy 1.24.4 ff.) since there is no indication that this rite had any explicit connection with the concept of "the just war". J. W. Rich, *Declaring War in the Roman Republic in the Period of Transmarine Expansion* (Brussels, 1976), unfortunately sheds no light on the problem. On the concept, see S. Albert, *Bellum iustum: Die Theorie des 'Gerechten Krieges' und ihre praktische Bedeutung für die Auswärtigen Auseinandersetzungen Roms in Republikanischen Zeit* (Kallmünz, 1980), who commits every possible methodological error in her a priori definition of "iustum" as the modern "just" and then, not surprisingly, cannot find any consistent ancient data to substantiate her view of "the just war"; for a straightforward empirical account

(cont. on p. 7)

categories of warfare were lumped together under the rubric of banditry or *latrocinium*.

As part of a programme of modern analysis it is therefore necessary to make a preliminary, if somewhat arbitrary, selection of the materials presented to us in our sources as *latrocinium*. But one must bear in mind that the sources themselves make no legal or social distinction between banditry and these other types of violent action; it is we who do so. Only after the reasons for this wholesale designation of them as *latrocinium* have been understood may these other forms of violence be drawn back into the general argument. First, I exclude from consideration a type of entrepreneurial violence primarily associated with pastoralist communities along the southern and eastern frontiers of the empire, a form of violence we today call *razzia* or raiding.[11] I also exclude that type of violence between or within village or ethnic groups ordinarily designated by the term *feud*.[12] I shall also ignore certain types of violence of a marginally political nature that are usually construed as communal resistance to the expansion of the Roman state during or immediately after the conquest of a given region.[13] On less justifiable grounds two forms of banditry will not be considered here, types which, because of their special forms of organization and spatial location, demand separate treatment. These are, first, a type of violence in an urban context that is usually subsumed under the heading of "crime", and, second, banditry on the high seas which even in our own social demonology is conceded the separate title of piracy.[14] Lastly, many full-scale

(*n. 10 cont.*)
of the use of the phrase, see H. Drexler, "Bellum iustum", *Rheinisches Museum*, cii (1959), pp. 97-140.

[11] There is no good single work devoted to the *razzia* as a form of violence, but one may consult W. G. Irons, "Livestock Raiding among Pastoralists: An Adaptive Interpretation", *Papers of the Michigan Academy of Science, Arts and Letters*, l (1965), pp. 383-414; L. Sweet, "Camel Raiding of North Arabian Bedouin: A Mechanism of Ecological Adaptation", *American Anthropologist*, lxvii (1965), pp. 1132-50. For some ancient examples, see Pliny, *Natural History*, 5.5.38; Strabo 16.1.26 (C 747) and 15.3.4 (C 728).

[12] See, for example, E. L. Peters, "Some Structural Aspects of the Feud among the Camel-Herding Bedouin of Cyrenaica", *Africa*, xxxvii (1967), pp. 261-82, and the synoptic work of J. Black-Michaud, *Cohesive Force: Feud in the Mediterranean and the Middle East* (Oxford, 1975), esp. ch. 1 where he distinguishes generative models for the feud and other forms of social violence, including war. Raiding, or *razzia*, may indeed only be a mechanism for operating the more general type of the feud. See Strabo 4.6.7 (C 205) and *Corpus Inscriptionum Latinarum* (hereafter *CIL*) x, 7852 = *Inscriptiones Latinae Selectae* (hereafter *ILS*) 5947 (Sardinia, A.D. 69), a feud between two villages that lasted at least 185 years and was finally brought to an end (we think) by a forceful intervention by the state which threatened to punish one side severely for its *longae contumaciae*.

[13] The most accessible analyses of this type of violence are those by S. L. Dyson, "Native Revolts in the Roman Empire", *Historia*, xx (1971), pp. 239-74; S. L. Dyson, "Native Revolt Patterns in the Roman Empire", in H. Temporini (ed.), *Aufstieg und Niedergang der römischen Welt*, ii.3 (Berlin, 1974), pp. 138-75.

[14] There is no adequate study of either phenomenon for Graeco-Roman antiquity. For piracy one may consult H. A. Omerod, *Piracy in the Ancient World: An Essay in Mediterranean History* (Liverpool, 1924; repr. 1978), with reference to the earlier work

(*cont. on p. 8*)

conflicts that would otherwise have been accorded the epithet "war" even by the Roman state's own criteria, but which were labelled "banditry" for ideological reasons, are also disregarded in the immediate discussion, though I shall return to this problem once the initial stage of the investigation has been completed.

This list of exclusions may seem to be such radical surgery on the "body" of *latrocinium* that there will be little left to analyse. The impression, however, is entirely false. The exceptions just noted hardly exhaust the catalogue of violent acts short of war that are known to have existed in the Roman empire, or the information on the specific residual form of violence that *we* define as banditry. Indeed, to judge from a number of "barometric" readings this residual core of *latrocinium* was a common phenomenon in the societies that constituted the empire in any period one would care to investigate. Just as evidence of slavery can be found in every nook and cranny of Roman social structure and can be seen to affect almost every conceivable type of legal action that the state sanctioned, so too banditry appears as integral to the functioning of imperial society. Of course, one would not presume to claim that banditry is ubiquitous in the same way as the institution of slavery. Yet much the same resurfacing of the subject in the laws can be noted.[15] Unlike slavery, however, banditry appears to have been perceived as marginal to central Roman society, albeit a phenomenon that impinged on the most mundane aspects of Roman social life.

I do not mean this statement to be understood in some obvious sense, as for example in the existence of many laws directed at the repression of bandits. Rather I am thinking of a more subtle intrusion of the phenomenon into numerous laws that have no obvious or direct connection with banditry. In these laws brigandage constantly surfaces as a peripheral item, though one of common concern, much in the manner of earthquakes, tempests on the high seas and other "natural disasters". That is to say, banditry is mentioned as one of those external occurrences that could affect almost any legal act from the deposition of a will to the signing of building contracts, to sales agreements, marriages and the transfer of dowry.[16] Among the

(n. 14 cont.)
of Sestier and Ziebarth; P. Brule, *La piraterie crétoise hellénistique* (Paris, 1979). For analysis, see Y. Garlan, "Signification historique de la piraterie grecque", *Dialogues d'histoire ancienne*, iv (1978), pp. 1-16.

[15] See M. I. Finley, *The Ancient Economy* (London, 1973), p. 63, on W. W. Buckland, *The Roman Law of Slavery* (Cambridge, 1908).

[16] *Digesta* (hereafter *Dig.*) 32.1.pr. (Ulpian), affecting the ability to make a will; *Codex Justinianus* (hereafter *CJ*) 4.34.1 (A.D. 234), affecting deposits and heirship; *Dig.* 28.1.13.pr., on the making of a will; *CJ* 4.24.6 (A.D. 225), on pledges; *CJ* 5.31.8 (A.D. 291), on delaying a petition; *Dig.*23.3.5.4 and 24.3.21, affecting dowries; *Dig.* 49.16.14, a soldier on leave and late returning to camp is charged as AWOL unless delayed by storms, bad weather at sea, or by bandits on land; *CJ* 6.46.6.pr. (A.D. 532), interrupting an inheritance; *CJ* 6.38.1.pr. (A.D. 213), interrupting sales in the countryside.

common causes of death recognized by the laws are old age, sickness and attacks by bandits.[17] Still other laws list brigands with other natural disasters (our Acts of God) for which no legal action could be taken, others being storms, earthquakes, fires, sickness, natural death and the actions of runaway slaves.[18] Then too, the actual apprehension and public trial of bandits was thought to be a common enough occurrence to enter the realm of the schooltext. Here we find the scene of the bandit being led through the forum of the Roman municipality as one of those vignettes of everyday life used in a schooltext to assist in the learning of Latin, much as our primers might contain a scene of "law and order" as part of the normal round of daily activity in "our town" for children to learn.[19]

Another index of the ubiquity of banditry, attested both in the law codes and in other literary sources, is the general danger associated with travel beyond town walls. The traveller by ship expected the disasters of sea storms and pirates, the traveller on land attacks by bandits. In the mid-first century St. Paul specified bandits as a common danger to be faced on land and sea. Earlier Jesus himself had used the story of the Good Samaritan: the tale of a foreigner who had been attacked by bandits on the main road from Jerusalem to Jericho. The journey was not more than fifteen miles in length over one of the most frequently travelled routes in Judaea. The parable exploited a common occurrence with which any one of Jesus' listeners could readily identify, much as if we were to pass by the victim of a traffic accident.[20] The situation was no different even for high-ranking Roman citizens in the heartland of the empire. The satirist Juvenal made a savage point of the lack of security in the centre of the city of Rome, and the senator Seneca noted the dangers of road travel outside its walls.[21] Persons of high social status (perhaps especially them) were known simply to "disappear" while travelling,

[17] *Dig.* 13.6.5.4.

[18] Attacks by bandits are listed among common natural disasters affecting loans: the deaths of slaves (except those due to negligence or wrongful intent), attacks by pirates, fires, shipwrecks, and slaves who run away who are not usually guarded, *Dig.* 13.6.18.pr. If an estimate is given on the value of cattle and they die in a fire or are stolen by bandits, it is *commune damnum*, *Dig.* 17.2.52.3. It is listed among common misfortunes: sickness, seastorms, winter weather, attacks by bandits, *Dig.* 27.1.13.7; heirs can lose property if the loss involves the deaths of slaves or of other animals, theft, pillage, fire, ruin, shipwreck, or the violence of enemies or bandits, *Dig.* 35.2.30.pr; cf. *CJ* 4.65.1 (A.D. 213) and 4.65.12 (A.D. 245); rustling and the sale of animals, *Dig.* 19.2.9.4 (A.D. 160s); cf. *Dig.* 19.5.20.1 and 39.5.34.1.

[19] A. C. Dionisotti, " 'From Ausonius' Schooldays': A Schoolbook and its Relatives", *Jl. Roman Studies*, lxxii (1982), pp. 83-125, at p. 104, lines 74 f., and pp. 119, 122-3.

[20] II Corinthians 11.26; cf. Luke 10.25-37. Commentary on the latter can be found in J. Jeremias, *The Parables of Jesus*, 3rd edn. (London, 1972; trans. of his *Die Gleichnisse Jesus*, 8th edn., Göttingen, 1970), pp. 202-3.

[21] Juvenal, *Satires*, 10.19-22; cf. Seneca, *Letters*, 123, in a situation generally affected by banditry, and cf. 14.9, "only the poor man is safe from bandit attacks".

and this in spite of the protection of armed bodyguards. The younger Pliny notes one such instance in a letter written to his friend Hispanus. A Roman *eques* named Robustus and a friend of his, one Atilius Scaurus, had set out on the high road to Ocriculum, a town only forty miles north of Rome on the *Via Flaminia*, the major arterial road to the Po valley. They were never seen again. A thorough search turned up no trace of either man or, for that matter, any of their attendants. Pliny is not surprised. He remarks to Hispanus that the same fate probably struck these men as once befell Metilius Crispus, a fellow townsman of his from Comum in northern Italy. Crispus left Comum one day with his bodyguard of slaves. He was never seen again.[22] Insecurity of this type, endemic to the countryside, is to be found not only in Italy and Judaea of the first century; it was ubiquitous, though in varying degrees of intensity, in the empire in all periods of its existence. In the late fourth century the senator Quintus Aurelius Symmachus wrote in a letter that although he was prefect of Rome he did not dare to venture beyond the walls of the city because the roads outside were infested with brigands.[23] Such dangers produced serio-comic scenes of travel in the provinces in which one of the few armed convoys that regularly toured the roads of a region, that of the governor and his staff, was accompanied by motley bands of people who hoped that they might escape the perils of the road by huddling close to the safety represented by "government on the move".[24]

This impression of a general yet somewhat indefinable danger presented by bandits is further reinforced by two other indicators. The first is a small number of inscriptions found on tombstones that commemorate men, women and children who were murdered by bandits. Although few in number, such inscriptions are found in almost all regions of the empire, including places close to Rome itself. The deaths were evidently a common enough occurrence to give rise to a formulaic expression found on most tombstones, a brief *interfectus a latronibus* ("killed by bandits").[25] The epitaphs are

[22] Pliny, *Letters*, 6.25; cf. A. N. Sherwin-White, *The Letters of Pliny: A Historical and Social Commentary* (Oxford, 1966), pp. 384-6, though I cannot accept his conclusion that such incidents were necessarily "rare" just because Pliny notes them.

[23] Symmachus, *Letters*, 2.22.

[24] For a description, see Epictetus, *Discourses*, 4.1.94 f.

[25] See the following: *CIL* ii, 1389 (Baetica, Conventus Astigitanus), 2968 (Tarraconensis, Conventus Caesaraugustus), 3479 = 5928 (Tarraconensis, Carthago Nova); iii, 1559 = 8009 (Dacia, Slatina), 1579 (Dacia, Ad Mediam), 1585 = 8021 (Dacia, Dobreta), 2399 = *ILS* 8514 (Dalmatia, Spalato), 2544 = *ILS* 8506 (Dalmatia, Spalato), 8266 = 14574 (Upper Moesia, Urbica), 8542 (Upper Moesia, Orahorac near Prizren), 8830 = *ILS* 5112 (Dalmatia, Spalato), 14587 = *ILS* 8504 (Upper Moesia, Ravna); vi, 234 = *ILS* 2011 (Rome), 20307 = *ILS* 8505 (Rome); viii, 20307 = *ILS* 5795 (Africa, Lambaesis); xiii, 259 (Aquitania, Lugdunum Convenarum), 2282 (Lugdunensis, Lugdunum), 2667 (Lugdunensis, Augustodunum), 3689 (Belgica, Treviri), 6429 (Upper Germany, Gehaborner Hof); *ILS* 2646 (Aidussina near Tergeste), 8507 = *Année épigraphique* 1903:209 (Aquileia), 1901:19 (Upper Moesia, Ravna), 1934:209 (Dalmatia, Petch); on the cases from the lower Danubian region, see D.

(cont. on p. 12)

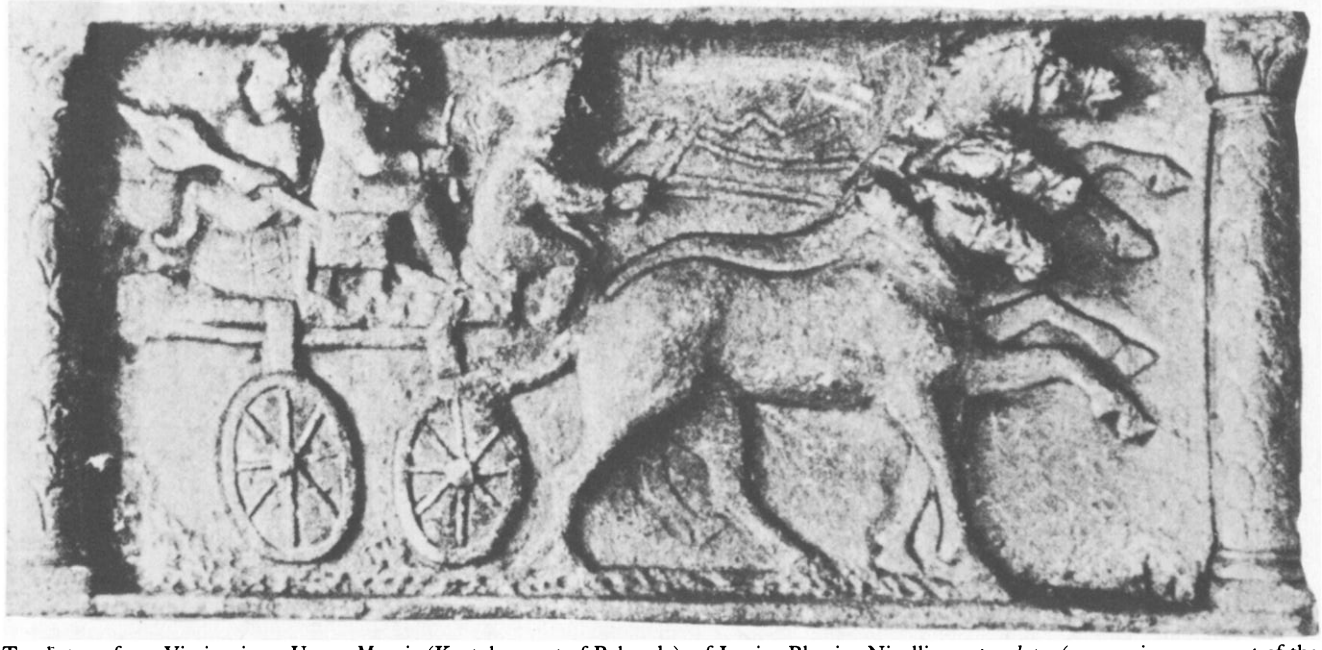
Tombstone from Prizren in the Metohija region of Upper Moesia (southern Yugoslavia), set up by Sita Dasipi and his wife to commemorate his father, Scerviaedus Sitaes, who was "killed by bandits" (*interfectus a latronibus*): *Corpus Inscriptionum Latinarum*, iii, 8242.

surely indicative of a larger problem than is suggested by their small absolute number since it would be unusual, given the prevailing etiquette of funerary commemoration, for explicit mention to be made of bandits at all. The number we do have, therefore, is a harsh if limited admission of a more widespread danger made explicit in the other literary sources. The other index of the ubiquity of banditry is to be found in the number of concrete measures taken by the Roman state — the building of guard posts, watchtowers, advance stations and other fortifications — to provide protection for those using the roads. The elaborate defensive systems (the so-called *limes*) found along the Rhine-Danube, Syro-Palestinian and African frontiers of the empire are usually interpreted as large-scale strategic works directed against the great external enemies of the state. Although there is a basic truth in this observation, it cannot obscure the fact that many *elements* of these systems are known from epigraphic evidence to have been constructed to ensure a general safety for travellers and transport on local roads. Not a few of these frontier defences were directed as much to the solution of low-level regional threats to security as they were to more awesome "barbarian" armies.[26]

Hence one may accept that banditry posed a specific type of threat to the Roman state. The problem for the historian is to define both the threat and the phenomenon more accurately. One might begin with a certain Julius Senex who is named in a letter written by the senator Fronto to the emperor Antoninius Pius in the early 150s A.D. Senex, Fronto states, is a close personal friend of his from Mauretania, one of Rome's African provinces. The reason Fronto mentions Senex is his peculiar expertise: the hunting down of bandits. The context is Fronto's impending departure to take up the governorship of the Roman province of Asia. As matters developed Fronto seems not to have taken up the post, but the letter is still illustrative of the type of personal friend he was considering taking on his administrative staff. Obviously Senex's skill as a bandit hunter was

(n. 25 cont.)
Tudor, "*Interfecti a latronibus* in inscripţiile din Dacia", *Studii şi cercetări de istorie veche*, iv (1953), pp. 583-95.

[26] See *CIL* iii, 3385 = *ILS* 395 = 8913 (Matrica-Baata, on the banks of the Danube, Lower Pannonia, A.D. 185), cf. 10312-13 (Intercisa, Dunapentele, Upper Pannonia); viii, 2495 (Qsar Sidi al-Haj, Numidia, A.D. 188) and 2494 = *ILS* 2636 (Loth Borj, Numidia). Cf. *Année épigraphique* 1905:114 and 145 (*ad CIL* iii, 3385) and 1910:145 (*ibid.*); *CIL* iii, 12483 = *ILS* 724 (Troesmi, Iglitzae, A.D. 337-40), and the military careers of equestrians and senators in which a command against bandits is noted: *praefectus adversus latrones* (*AE* 1968:109, Satricum, Italy); cf. *CIL* xi, 6107 = *ILS* 509 (Umbria, on the Via Flaminia, A.D. 246); and *praefectus arcendibus latrociniis* (*CIL* xiii, 6211, Ad navem superiorem, Upper Germany; 5010 = *ILS* 7007, Nyon, Noviodunum). On the last inscription, and a general study of the series, see L. Flam-Zuckerman, "A propos d'une inscription de Suisse (*CIL* XIII, 5010): étude du phénomène de brigandage dans l'empire romain", *Latomus*, xxix (1970), pp. 451-73.



Tombstone from Viminacium, Upper Moesia (Kostolac, east of Belgrade), of Lucius Blassius Nigellio, a *speculator* (reconnaissance agent of the army) from *Legio VII Claudia*, on a mission in his official transport, protected by a rear-riding guard armed with a spear: *Corpus Inscriptionum Latinarum*, iii, 1650.

regarded as necessary even for an old and long-pacified province like Asia.[27] Since the maintenance of law and order (and its close corollary, the collection of tribute) was the principal duty of the governor, he had to call on the expertise of men like Senex. The section of the *Digest* entitled "Concerning the Duties of a Provincial Governor" (*De officio praesidis*) states as much, with reference to the sorts of men who threatened order in provincial society:

> It is the duty of a good and serious governor to see that the province he governs remains peaceful and quiet. This is not a difficult task if he scrupulously rids the province of evil men, and assiduously hunts them down. Indeed, he must hunt down desecrators and pillagers of sacred property (*sacrilegi*), bandits (*latrones*), kidnappers (*plagiarii*), and common thieves (*fures*), and punish each one in accordance with his misdeeds. And he must use force against their collaborators (*receptatores*) without whom the bandit (*latro*) is not able to remain hidden for long.[28]

The text is not just an ideological expression of the state and its enemies; it embodies the actual practice of governors. In a letter written to his brother Quintus, who was governor of Asia at the time (60 B.C.) Cicero congratulates him on a good governorship, a very important part of which consisted in the maintenance of order in the countryside. The letter makes specific reference to Quintus' repression of bandits in the region of Mysia in north-western Anatolia.[29] The situation had not improved much in the general region of Asia when, precisely a decade later, Cicero himself took up the governorship of Cilicia (51-50 B.C.).[30] This practical side of governance may then be related to some of the more detailed provisions of the legal injunction to the governor quoted above. Though the initial section of the law includes a detailed naming of criminal types, the final sentence refers only to *latrones* in general, as a category in which all the other subtypes are included. That is the promise and the problem with such source materials: everyone from a common thief to a rampant pillager is lumped under the label *latro* since all form part of a common threat to the same provincial order.

But, limited as the text is, it does provide an important clue to the analysis of the relationship between state representatives of power and the *latrones*, no matter who the latter may have been. The law assumes that bandits cannot operate without a broader network of

[27] Fronto, *To Antoninus Pius*, 8 (Naber, 169 = Loeb, Fronto, i, pp. 236-7).

[28] *Dig.* 1.18.13; *sacrilegi* were temple robbers (Livy 29.18.8; Cicero, *Verrines*, 2.1.9 and 2.5.188; *On the Laws*, 2.40), *plagiarii* were kidnappers (Cicero, *To his Brother Quintus*, 1.2.6), and *fures* were common thieves.

[29] Cicero, *To his Brother Quintus*, 1.1.25.

[30] For his description of the "free Cilicians", their banditry, and his campaign against them for which he was hailed "imperator", see Cicero, *To Atticus*, 5.20. The situation, however, did not improve. At the end of his governorship, upon leaving the province in June of 50 B.C. he wrote to Atticus (6.4.1) that brigandage was still rampant in the region; cf. *To his Friends*, 2.9.1 (from near Taurus in 51 B.C. to Caelius Rufus) where he notes that he is ignorant of events in the outside world: "I am in a region where news comes in slowly both because of its remoteness and because of banditry in the countryside".

Relief from the village of Böyük Kadife (western Turkey), showing the head of a local militia (a *paraphylax*) on horseback facing three of his men who are attired in paramilitary gear; the first of them salutes his leader, who is styled a "hero" in the inscription: L. Robert, *Etudes anatoliennes* (Paris, 1937).

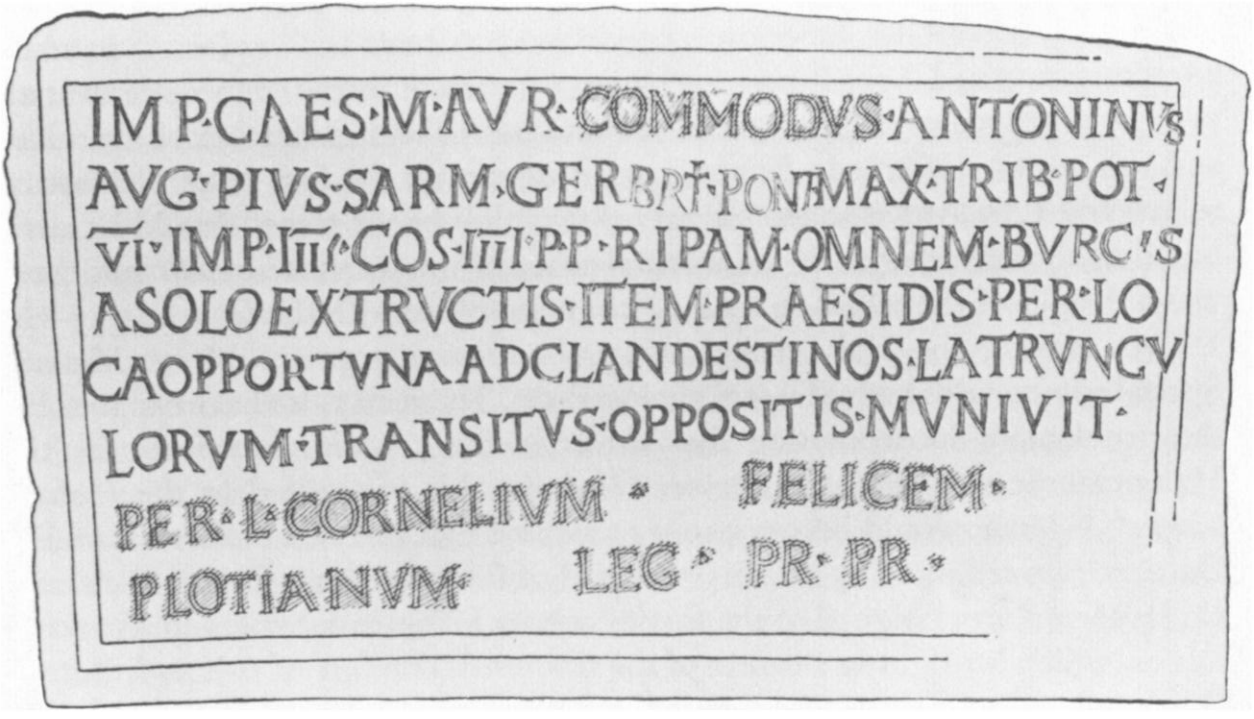
supporters, and that the governor cannot hope to put an end to their actions without striking at this base. In the words of the law, "without them the bandit cannot long remain hidden".[31] The law is at once revelatory of state power and its exercise. Implicit in its terms is the principal mechanism by which the governor was expected to repress banditry, that of betrayal. Why was the collaboration of the bandit's supporters so urgently sought and required by the state? Surely not just because popular support formed a screen between the bandit and the local instruments of state repression.[32] In the Roman empire these instruments, in their modern form of a deep and effective infrastructure of police power (local gendarmeries, solid networks of investigative agencies) simply did not exist. Of course there were local patrolmen and, under various names, men employed in the task of maintaining a sort of civic order in towns and villages. Most, like the irenarchs (peace officers) and *phylakes* (guardsmen) are attested in the more developed urbanized regions of the eastern empire. But there is hardly any evidence, even in these well-documented instances of local police, of any integral connection between them and the armed force of the central state, or of any permanent organization of them by the state.[33] In the western empire municipalities also had their *stationes* (guards, posts) and *viatores* (road patrols) to control town rowdyism, but they hardly represented the sort of effective force a governor could use in the repression of bandits in the countryside.[34] To judge from Cicero's advice to his brother, dependence on these local civic patrols was not an advisable course

[31] *Dig.* 48.13.4.2 emphasizes the same point, namely that bandits were usually tried *extra ordinem*.

[32] As Hobsbawm, *Bandits*, pp. 48 ff. contends.

[33] The best evidence for any direct linkage comes from the province of Asia where the governor involved himself in the appointment of irenarchs; each city sent a list of ten candidates from which he chose one (Aristides, *Orations*, 50.72 f., K). For the general situation, see A. H. M. Jones, *The Greek City*, 2nd edn. (Oxford, 1940; repr. 1971), pp. 211-13: "What is today considered the most elementary duty of government, the maintenance of law and order, seems, from the absence of reference to it, to have been almost ignored by Hellenistic cities"; see pp. 212 ff. for his comments on the appearance of irenarchs in the second century A.D., men appointed by Roman governors to pursue bandits, along with *diogmitai* "hunters", and his nn. 2 (nightguards), 3 (*paraphylakes*), 4 (irenarchs); see also A. H. M. Jones, *The Criminal Courts of the Roman Republic and Principate*, ed. J. A. Crook (Oxford, 1974), p. 116. On irenarchs and their powers in Asia in the reign of Antoninus Pius, cf. *Dig.* 48.3.6.1.

[34] See O. Hirschfeld, "Die Sicherheitspolizei im römischen Kaiserzeit", *Sitzungsberichte der Akademie der Wissenschaften, Berlin, Philologisch-Historische Klasse* (1891), pp. 845-77 = ch. 39 in his *Kleine Schriften* (Berlin, 1913), pp. 576-612, at pp. 859 (= 591) ff. for the provinces and pp. 866 (= 598) ff. for *stationarii*. Cf. C. Lecrivain, "Stationarii", in *Dictionnaire des antiquités grecques et romaines*, iv (1913), pp. 1469 f. For examples, see *CIL* x, 2468, line 16 (A.D. 168-72, Saepinum, Italy); F. F. Abbott and A. C. Johnson, *Municipal Administration in the Roman Empire* (Princeton, 1926; repr. New York, 1968), no. 144, line 9 (Aphrodisias). *Viatores* were also employed to haul persons before municipal magistrates; see Aulus Gellius, *Attic Nights*, 13.12.6; Cicero, *On Old Age*, 16.56; *Against Vatinius*, 9.12; Livy 2.56.13, 3.56.5; Justinian, *Institutes of Law*, 4.6; *Dig.* 5.1.8.2.



Inscription from Intercisa, Pannonia (central Hungary, on the Danube) marking the site of an army watchtower built in the reign of Commodus to provide surveillance over places subject "to clandestine forays by bandits" (*ad clandestinos latrunculorum transitus*): *Corpus Inscriptionum Latinarum*, iii, 3385.

to be followed by a provincial governor. If need be he should rely on the services of vigilantes and semi-professional killers (*diogmitai*) already in the employ of landowners in the region.[35]

The armed provinces of the empire — that is, those in which there were stationed substantial units of the army — did, in this sense, have better policing. For if we must seek any equivalent at all to modern police in the empire there is no doubt where they are to be found. The usual impetus among historians of the Roman army is to see its soldiers as dedicated to conquest and to the battling of external enemies; either that, or as peaceable administrators, builders and farmers. The whole *role* of the army as an internal police force in the empire remains one of the most neglected of subjects in works devoted to the institution. Even a cursory examination of the day-to-day activities of soldiers stationed in the multitude of garrisons *not* on the frontiers but in the interior of provinces is more than sufficient to demonstrate this critical *police function*. Wherever and whenever adequate documentation is available relevant to this internal role of the army in contact with the vast majority of the inhabitants of the empire (for example, the papyri of Egypt, the Christian martyr acts) we find soldiers everywhere functioning as investigators, enforcers, torturers, policemen, executioners and jailers.[36] So Roman governors in the armed provinces of the empire could have recourse to a source of force other than that offered by local civic authorities — they could go directly to the army itself.

These simple observations lead to another, namely the dimorphic nature of the confrontation between central authority and local power in the Roman empire. On the one hand this confrontation had a bolder "face-to-face" aspect than in most modern societies: there was simply neither the need nor the means to maintain a disguise. The ironic other side of the equation was that the state itself lacked any coherent centrally organized police force to serve as an effective *civic* counterpart to its military rule of an empire. The state was concomitantly dependent either on local self-help or on direct use

[35] For *diogmitai*, see Dittenberger, *Orientis graecae inscriptiones selectae*, 511, line 10 (Aezani). Most instructive is the account of the martyrdom of Polycarp (see H. Musurillo, *The Acts of the Christian Martyrs* (Oxford, 1972), pp. 6-7), where a posse of *diogmitai* led against bandits is commanded by an irenarch. See also Cagnat, *Inscriptiones graecae ad res romanas pertinentes*, iv, 886 (Ceretapae), an epitaph of one Aurelius "Eirenaios" (the "man of peace") who "killed many bandits" in Lycia, would seem to be a memorial for just such a hired killer. Hence the *diogmitai* in type lay somewhere between a posse of vigilantes and professional enforcers and regulators — as such they were very close to the bandits themselves as a category; see *Life of Marcus* (*Scriptores Historiae Augustae*; hereafter *SHA*), 21.2.7-8.

[36] See the important article by G. Lopuszanski, "La police romaine et les chrétiens", *L'antiquité classique*, xx (1951), pp. 5-46; details on the local police units of the army can be found in A. von Domaszewski, "Die Beneficiarposten und die römischen Strassennetze", *Westdeutsche Zeitschrift für Geschichte und Kunst*, xxi (1902), pp. 168-211, and in T. Mommsen, "Die römischen Provinzialmilizen", *Hermes*, xxii (1887), pp. 457-558 = *Gesammelte Schriften*, vi (Berlin, 1910), pp. 145-55.

of the army. Apart from the occasional recourse to special army commands in the case of serious large-scale outbreaks of banditry, all evidence points to the conclusion that governors of unarmed provinces were at the mercy of whatever local support they could muster in the repression of outlaws. The phenomenon of banditry, therefore, places in high relief one of the critically weak articulations of the ancient state. The Roman governor had to rely on local individuals and corporate entities, such as municipalities, to maintain regional order. Many laws in the codes, as well as foundation charters issued to municipalities, specify that it is the responsibility of the town to capture and to hand over bandits operating in its rural territory to the court of the provincial governor.[37] There are many known instances of this behaviour in practice, of which I shall cite only one here. In the year A.D. 190 the emperor Commodus publicly thanked the magistrates, council and people of the town of Bubon in north-western Lycia for the zeal and energy with which they had hunted down, attacked and defeated local bandits, taking some prisoner and killing others.[38] But not only legally recognized governmental units like municipalities were accorded such rights. The laws also stress that it is the duty of private individuals to detect, to pursue and to betray bandits to local authorities. In the pursuit of this obligation the private individual was authorized to use force, to injure and even to kill such men. And they were also exempted, in doing this, from normal laws on *iniuria* and homicide.[39] Such a *carte blanche* transfer of the positive use of violent force from the state to private individuals was unusual in Roman law. It went far beyond the normal concession granted by most states to individuals of using reasonable force to protect themselves when attacked. The Roman state clearly regarded this grant of "public vengeance" (as it was politely phrased) as exceptional, and was manifestly uneasy about this reversal of state power. Still, the practice was justified in the name of the "common peace".[40]

This odd legal treatment of men called bandits, a special treatment

[37] *CJ* 1.55.6-7 (A.D. 405), 8.40.13 (A.D. 238-40); cf. The *Lex coloniae genetivae Iuliae*, 103 (see E. G. Hardy, *Roman Laws and Charters* (Oxford, 1912), pp. 47-8 = *Fontes iuris romani antejustiani*, 2nd edn., i, no. 21, p. 191).

[38] F. Schindler, "Die Inschriften von Bubon (Nordlykien)", *Österreichische Akademie der Wissenschaften, Philosophisch-Historische Klasse*, Sitzungsberichte, cclxxviii.3 (Vienna, 1972), no. 2, pp. 11-23.

[39] *CJ* 3.27.1-2 (A.D. 391 and 403), 9.16.3 (A.D. 265); cf. *Dig.* 9.2.7, on regular rules of self-defence.

[40] *CJ* 3.27.2 (A.D. 403), "militiae ius sibi sciant pro quiete communi exercendae publicae ultionis indultum" ("let the military realize that the right of inflicting public vengeance is granted them for the sake of common peace") = *Codex Theodosianus* (hereafter *CTh*) 7.18.14; *CJ* 9.2.11 (A.D. 292), "ob ultionem publicam obnoxius legibus fuit" ("[he] was subject to the laws on account of public vengeance"); *CJ* 27.1.1, "vestram igitur vobis permittimus ultionem" ("we therefore allow you to inflict your own vengeance"); cf. *Sententiae Pauli*, 5.23.8.

to which the state was compelled by its very nature, immediately set them apart from ordinary criminals — as did their punishment. The trial and punishment of bandits, as with most common criminals in provincial society, was a summary affair entirely dependent on the arbitrary decision and power (*coercitio*) of the magistrate (in the case of most serious crimes, the governor himself). Procedure was virtually non-existent. It consisted of whatever traditional norms the governor chose to exercise in a direct hearing of the case, a hearing that was set entirely outside normal trial procedure for upper-class persons as established in the city of Rome (hence its title of *extra ordinem*).[41] Penalties also set bandits apart from the common criminal defendant, both in the degree of punishment and in the element of deterrence. Many provisions in the laws insist on the power of the governor's appointed legal officers to interrogate the bandit on the spot (with torture accepted as the norm) *before* dispatching him to the governor for sentencing. In no case, adds the law, are any of the courtesies normally extended to other criminal defendants, such as respite for sacred or public holidays, to be allowed to such men.[42] At the governor's court the expectation was of summary and savage judgement.[43] Certainly members of the upper class believed that *latrones* deserved the worst type of death sentence.[44] The law sanctioned the most brutal of the death penalties (the *summa supplicia* — throwing to the beasts, burning alive, and crucifixion) as savageries that were necessary "to set a public example".[45] Crucifixion had a long history as a punishment for bandits, going back well into the early years of the Roman Republic. Its special institution as a formal punishment is connected with the dual and interrelated threats of servile rebellion and banditry, especially in southern Italy and Sicily. The first known case of "throwing to the beasts" as a legal punishment was the death inflicted on a Sicilian bandit in the reign of Augustus.[46] Crimes that were habitually associated with banditry (for example, cattle rustling) automatically incurred the most savage penalties (capital punishment, condemnation to the mines), and bandits, by the very fact of their vocation, were always considered guilty and deserving of such punishments.[47] The punishment of bandits was clearly viewed as a form of state retribution and

[41] J. Crook, *Law and Life of Rome* (London, 1967), pp. 268-75, remains the clearest and simplest explanation.

[42] For example, *Dig.* 48.3.6.1; cf. *CTh* 9.35.7 (A.D. 408).

[43] Petronius, *Satyricon*, 91.

[44] For example, Seneca, *Letters*, 7; compare the remarks of a governor engaged in the routine torture of a bandit, as observed by the sophist Polemo in Philostratus, *Lives of the Sophists*, 541.

[45] *Dig.* 48.19.16.10.

[46] On Sicilian brigandage and his eyewitness account of the death of Selouros "the son of Aetna" in a gladiatorial show in the forum at Rome, see Strabo 6.2.6 (C 273).

[47] *Dig.* 48.19.11.2.

public terrorism. Well-known bandits were to be executed and their bodies impaled on forked stakes in the same place where they had committed their crimes so that the mere sight would deter others from performing similar acts. It is this publicity of punishment, also evident in the throwing of bandits to their death to beasts in the great arenas of public entertainment, that marks them as men apart.[48]

The whole network of detection, pursuit and punishment just outlined reveals one of the peculiar characteristics of the ancient state that led, almost automatically, to the definition of a far wider range of persons as bandits than in the modern absolutist state: the severely stunted development of the framework of law dealing with illegitimate use of violent force. A critical aspect of this shortfall was the lack of clear differentiation between civil and criminal law and, given this problem, the extent to which "criminal law" was at all operable in the absence of adequate policing, investigative, enforcement and prosecuting agencies.[49] The general restriction of "criminal" actions to a civil mode of "breach of contract" meant that there was always a hesitancy or indeed an inability to cope with acts against society in general within the scope of legal "crimes". Men committing such violent acts almost immediately became "outlaws" because they had to be dealt with beyond the limits of criminal law and by instruments of collective state power rather than by individual civil action — that is, by provincial governors, military commanders and units of the army, or by the transfer of this power to private individuals and local corporations. If no private individual could bring a court action, by default it had to be brought by the state; that direct confrontation logically suggested that the defendant must be a subverter of the whole social order, a bandit. The problem was one of state definition, between those acts against the state that were "out-law" (that is, against the community but outside the scope of its law) and those which constituted major acts of violence against the whole state as such (that is, wars). This is precisely the way in which the Roman state reacted.

"Enemies (*hostes*) are those who have declared war on us or on whom we have declared war; all the rest are bandits (*latrones*) or plunderers (*praedones*)", states the *Digest* in a section on the definition of words as issued by the state (*De verborum significatione*, in this case *latrones*).[50] But the definition itself, and the problem, could have

[48] *Ibid.*, 48.19.28.10, 48.19.28.15.

[49] This lack of differentiation is evident in every so-called "law code" from antiquity, beginning with the Sumero-Babylonian ones, including that of Hammurapi. See, especially, J. Renger, "Wrongdoing and its Sanctions: On 'Criminal' Law in the Old Babylonian Period", in J. M. Sasson (ed.), *The Treatment of Criminals in the Ancient Near East* (Leiden, 1977), pp. 65-77, together with the remarks of Crook, *Law and Life of Rome*, pp. 162-8, 268-70, on Roman law.

[50] *Dig.* 50.16.118.

arisen in other, more concrete, circumstances. What, for instance, if a Roman citizen, a fully fledged member of the state, were to pass in the course of violent action or seizure from one world (the state) into another (the non-state)? What would his status be after having crossed that frontier? As has already been observed in our remarks on the definition of war (*bellum* or *bellum iustum*) there was no problem when a real enemy or state of war existed since the prior condition of the combatants being recognized states had been met. In this case the captured citizen lost his citizenship (status) and became the property of the captor. To effect the re-entry of prisoners of war into Roman society, therefore, the law recognized a formal institution called *postliminium* (a recrossing of the boundary or threshold, the *limen*) wherein a person who had lost his citizenship by capture in war could re-enter normal society and reactivate his lost status. The jurist Ulpian, however, declared that anyone captured by persons defined as bandits did *not* lose his citizen status and so had no need of *postliminium* since "those men alone are enemies against whom the Roman state has declared war, or who have themselves declared war against the Roman people; all the rest are called bandits or plunderers" (that is, precisely the words of the *Digest* quoted above).[51] Bandits and pirates had no "state" recognition (as did the Parthians and Germans, says Ulpian) and so all men captured by them were technically still free and retained all their rights and privileges as Roman citizens.[52] For example, such men could draft a last will and testament while prisoners (as indeed they may well have wished to do in those circumstances) and it would still be perfectly valid.[53]

All these facets of the treatment of outlaws by the Roman state signal something rather significant about the formal position of bandits in the perspective of the archaic state. First, and most important, even in the technical-legal view of the state itself *such men were never seen simply as common criminals*. There existed quite separate definitions of them that placed bandits in a penumbral category between persons within the scope of the law (criminal and civil, largely overlapping) and enemies of the state. They were, quite literally, "out-law". Hence it was not only the downtrodden peasants who refused to place such men in the same category as common criminals. The state too desisted from this identification. Roman law in general reflects this view. It denies to bandits all legal rights of citizens, even those normally retained by criminal defendants. The person stigmatized with the label of bandit did not have normal

[51] *Ibid.*, 49.15.24; for a discussion, see L. Amirante, "Ancora sulla *captivitas* ed il *postliminium*", in *Studi in onore di Pietro de Francisci*, 4 vols. (Milan, 1956), i, pp. 517-44.

[52] *Dig.* 49.15.19.2.

[53] *Ibid.*, 28.1.13.pr.

access to courts for judgements, a marriage was declared to be null and void if one of the partners was discovered to be a *latro*, and so on.[54] That is to say, the bandit was a non-person, a judgement reflected not just in the law but also in upper-class thought in general where bandits are lumped together with the other outcastes of Graeco-Roman society: slaves and the insane.[55]

We may now return to the problem alluded to at the beginning of this article: the labelling of persons we would consider political enemies as *latrones*, and of full-scale wars as *latrocinium*. The fact is that once bandits had been defined as men who stood in a peculiar relation to the state, the label *latro* was available to be pasted on any "de-stated" person. It became a powerful metaphor in itself, used deliberately to cast doubt on hostile persons, principally political enemies. As a weapon of accusation it appears fully developed in the writings of Cicero and Sallust in the late Republic, coming into particularly intense usage during times of political stress and upheaval in the central state. Its deployment in Cicero, for example, is concentrated in the years 63 (for Catiline), 56 (for Clodius), and after 49 during the civil wars (for Dolabella, Marcus Antonius, Julius Caesar and even Octavianus).[56] Thereafter it was entrenched as part of political vocabulary and was commonly reverted to in times of central state crisis (that is in A.D. 68-9, 192-3 and in the whole of the mid-third century after 238) to brand political enemies, particularly those who were competitors for local power and for the imperial throne.[57] At the other end of this continuum, states themselves were perceived as emerging from an "anti-state" primitive chaos of banditry. So, for example, Rome was founded by Romulus and Remus, shepherd chieftains of bandit gangs.[58] Hence any confrontation between different levels of potential state power could be cast into the language of brigandage. In the life of Jesus, the protagonist

[54] *Ibid.*, 5.1.61.pr.-1; *CJ* 5.17.8.2-3; cf. T. Mommsen, *Römisches Strafrecht* (Leipzig, 1899; repr. Graz, 1955), p. 312, n.1.

[55] See, for example, Cicero, *On the Orator*, 3.18.65. That he also includes enemies (*hostes*) merely shows that the Stoics, of whom he is speaking, cast their net a little more widely.

[56] See, for example, Catiline: *Against Catiline*, 1.13.21, 10.27; 2.7.16; *For Milo*, 17, 21.55; Clodius: *To Atticus*, 4.3.3; *To Quintus*, 2.1.3, 2.2.3; Caesar: *To Atticus*, 7.18.12, 14.10.1-2; Caesar's assassins: *To his Friends*, 10.24.3; Dolabella: *To his Friends*, 12.14.1, 12.15.2-7, 12.25b.6; *To Brutus*, 14.9.2, 16.1; Antonius and/or Lepidus: *To his Friends*, 10.5.3, 10.6.1; 10.14.1, 4; 10.23.3, 12.2.2, 12.25b.6; *Philippics*, 3.7.16, 14.3.8.

[57] See the study by R. MacMullen, "The Roman Concept Robber-Pretender", *Revue internationale des droits de l'antiquité*, 3rd ser., x (1963), pp. 221-5.

[58] Livy 1.4.9, 1.5.3; cf. Eutropius 1.1-3; compare the age of Theseus in Plutarch, *Life of Theseus*, 6.4, 10.2, and early Greece as portrayed by Thucydides (nn. 64-5 below), and other early Mediterranean communities (n. 93 below). It is an old theme; cf. the legend of Sargon of Akkad in the Semitic tradition: J. B. Pritchard, *Ancient Near Eastern Texts* (Princeton, 1974), p. 119. It was later developed systematically by Ibn Khaldûn in his *Muqaddimah*.

attacks the centre of formal Jewish power and authority, the Temple, as "a bandits' hideout".[59] And, in his arrest in the Garden of Gethsemane, Jesus portrays himself as an anti-bandit, but also as a man wrongly identified as a brigand by his arresters: "Do you take me for a bandit, since you have come with swords and clubs to arrest me?". The theme continues in the scene of his execution, as is reflected in the epigraph to this essay.[60]

To sum up the argument thus far: whatever their absolute numbers (probably small) bandits were a common phenomenon in the Roman empire and presented the state with a specific problem of integration. Their actions and mere existence are correlated with the very definition and exercise of state power in a way that is reflected not only in legal and other empirical acts, but also in the metaphoric vocabulary in which state power was expressed. But these observations still leave the core of the phenomenon untouched. Who became a bandit? And why? How did this peculiar form of social violence arise? And what is its significance as a mechanism of social and political definition in archaic states?

Since the presence of bandits in a society depends to a large extent on recognition (in both senses of the word) there ought to be some historical point at which this recognition precipitates out in the form of a vocabulary, a novel terminology for a newly perceived phenomenon. This hypothesis provokes a brief excursus into the world of etymology. To avoid prior and just criticism from those who share a historian's scepticism of purely linguistic argument, I state now that I do not wish to make any historical conclusions hinge on the following observations *in vacuo*; they are only cogent in so far as they are substantiated by other historical observations. One might begin by noting that by the fifth, perhaps late sixth, century B.C. Greek city-states were employing the terms *lesteia* and *lestes* to refer to piracy and brigandage. But if these same words are traced back into earlier periods of Greek society we find that they have no such pejorative or specific sense at all. They merely signify another way of making a living, of acquiring economic goods (by plundering and raiding) that was coterminous with the whole of that society and which therefore could not be defined as something separate from it. "War" and "brigandage" appear as one indivisible thing along the same spectrum of meaning, and were only later to be differentiated by a historical process.[61] That this process was not necessarily linked

[59] Mark 11.17, Luke 19.46, Matthew 21.13; cf. Jeremiah 7.11.

[60] Mark 14.48, Luke 22.52, Matthew 26.55; on the execution, see also Mark 15.27, Matthew 27.38 and 44, with the implications of the Bar-Abbas episode in Mark 15.7 and John 18.40.

[61] The terms *lestes* and *lesteia* were originally connected (for example, in Homer) with *leis*, *-idos* meaning "booty" or "spoils" or raiding and warfare (see *Iliad*, 9.138 = 280, 11.677, 12.7, 18.327). Therefore a *leister*, *-eros* is one who is a despoiler, one who collects booty. But this family of words has no pejorative or statist meaning, and certainly bears no denotation of a bandit/state distinction. See R. J. Cunliffe, *A*

(cont. on p. 25)

solely to the first appearance of class structure is shown by the simple fact that classes were already present in these societies before the advent of banditry itself.[62] It may indeed be linked to the *intensification* of class as an element in the networks of power in these early social formations, but a further sufficient cause is required.

This sufficient element is surely the growing differentiation and rise of an autonomous entity that we designate "the state". The renewed appearance of a state structure in the Greek world, however, did not immediately remove all traces of earlier attitudes to raiding and plundering. Aristotle, in enumerating the various "modes of livelihood" by which men produce the substance of their life, and which lay at the basis of the Greek state (*polis*), gives the following five pure types: pastoral nomadism, hunting, banditry, fishing and agriculture.[63] And Thucydides, though he disapproves of banditry from the perspective of the *polis*, notes that there were many contemporary Greek communities for whom brigandage was still a perfectly

(*n. 61 cont.*)
Lexicon of the Homeric Dialect (London, 1924; repr. Norman, Okla., 1963), p. 249; and for full references, see H. Ebeling, *Lexicon homericum* (Hildesheim, 1963), pp. 985-6. On the continuation of this ethos even in the period of full development of the *polis*, see A. H. Jackson, "Plundering in War and other Depredations in Greek History from 800 B.C. to 146 B.C." (Univ. of Cambridge Ph.D. Thesis, 1969), and his essay, "Privateers in the Ancient Greek World", in M. R. D. Foot (ed.), *War and Society* (London, 1973), pp. 241-53.

[62] Hobsbawm, *Bandits*, pp. 18-19, a theme repeated throughout the work. He admits that in societies most characterized by class division and conflict, modern post-industrial ones, banditry is virtually non-existent. This observation is then fitted into his overall thesis by categorizing banditry as a "primitive" form of social action that gives way to "more advanced" forms (for example, the strike) as society develops. He appeals to a number of independent factors involved in modernization (a combination of economic development, more efficient communications, and public administration) as reasons for the disappearance of banditry. These factors, however, do not seem to stem from the conception of class and, in any event, the centrality of class to his explanation is surely open to question. Although western anthropologists have for a long time ignored the possibility of class structure in so-called primitive societies (placing most of their emphasis on kinship organization), much recent research has begun to question this single-minded interpretation. See, for example, C. Meillassoux, *Femmes, greniers et capitaux* (Paris, 1975), trans. as *Maidens, Meal and Money* (Cambridge, 1981); D. Seddon (ed.), *Relations of Production: Marxist Approaches to Economic Anthropology* (London, 1978); M. Godelier, *Horizon, trajets marxistes en anthropologie* (Paris, 1973), trans. R. Brain as *Perspectives in Marxist Anthropology* (Cambridge, 1977). Any technical Marxian definition of class must require that classes existed in earlier societies, and indeed that they must extend back into prehistory to a point where the study of man and his social behaviour (including production) merges with sociobiology. For the archaic phases of Greek and Roman history there can be no doubt; see, for example, M. I. Finley, *The World of Odysseus*, 4th edn. (London, 1978), ch. 3. The only question that remains, then, is the role of class relative to other forms of social force — in this case, above all, the state. The presence of class in itself offers no clear explanation of the historical conditions in which banditry appears and then disappears; hence Hobsbawm is compelled to offer a definition of banditry torn from any historical situation. But it cannot merely be a timeless "perception" that separates bandits from common criminals. One would rather conclude that banditry was created by the processual genesis of the state and that the true reason for its final demise in our world is the final victory of the state as a form of total domination.

[63] Aristotle, *Politics*, 1256a-b = 1.8.6-8.

honourable occupation.[64] Plato is, predictably, more critical. He classifies brigandage as a subtype of the hunting mode, but castigates it as the bad type of hunting as opposed to the pursuit of four-footed animals on horseback, the only "good" type.[65] The rise of the state in the Roman world effected a similar change in vocabulary, but one that is more difficult to trace because of the lack of good contemporary sources of sufficiently early date. As stated above, the principal Latin term for bandit was *latro* and for banditry *latrocinium*. These words are based on a **LATR* root and are derived from a whole family of words in Greek of similar origin, though earlier in date. The striking fact about all these earlier Greek terms (for example, *latris*, *latreia*, *latreuo*) in their usage from the seventh to early fourth centuries B.C. is that they have no apparent connection with bandits at all. *Latreia*, for example, is a noun meaning "the condition of a hired labourer, the performance of services or duties for another man". It has the denotation of "working for someone for compensation" and hence "performing labour obligations". But it also has a connotation of social subservience, a stigma of inferiority incurred by the very performance of the labour duties. The verb *latreuo* means not only to work for hire but also to be in servitude, "to be subordinate to someone else's dictates".[66] The question now must be: how and why did the conception of *latro* emerge from this matrix of terms with connotations of wage/market, duty/obligation, hire/employment and social relations of inferiority and superiority?

In their earliest usage in Latin these terms still did not refer either to bandits or to brigandage, but rather to military labour or service given for pay. To understand the importance of this development one must also understand that to serve in the army of a Greek *polis* was regarded both as a duty and a privilege. A man's ability to serve and the valuation of it largely determined his status as a citizen. The citizen soldier might occasionally receive compensation for "lost subsistence" but rarely in the form of a wage for his labour; that would be socially degrading and would broach the ideological first principles of the *polis*.[67] Much the same attitude was shared about the soldier in the army of the primitive city-state of Rome in the early Republic. Sometimes he received a *stipendium* (compare our

[64] Thucydides 1.5 ff. In the state perspective of late sixth- and early fifth-century Athens, forming a piratical or brigand association for the purpose of plunder was apparently still "legal"; see E. Ruschenbusch, *SOLONOS NOMOI: Die Fragmente des Solonischen Gesetzewerkes* (Wiesbaden, 1966), p. 98, F76a = *Dig.* 47.22.4.

[65] Plato, *Laws*, 7.823d. For a positive valuation of piracy and banditry among some Greek communities contemporary with the *polis*, cf. Thucydides 1.5 ff.

[66] G. Steinmayr, "Sviluppi semantici della base *latro* in Grecia e in Roma", *Atti e memorie dell'Academia di Verona* (1955-6), pp. 151-63.

[67] See Liddell and Scott, *Greek Lexicon*, p. 1032, s.vv.; Lampe, *Greek Patristic Lexicon*, pp. 793-4, s.vv.; for the significance of "wage", see E. Will, "Notes sur *MISTHOS*", in *Le monde grec: hommages à Claire Préaux* (Brussels, 1975), pp. 426-38.

"stipend") to compensate for lost subsistence, but not a wage. Both in the classical Greek *polis* and in the early Roman Republic the professional soldier who fought for pay (that is, a mercenary) remained an *outsider* to the social world of the state, stigmatized precisely by the fact that he *laboured* for a *wage* in the quintessential role normally held by the ultimate insider, the citizen. The contrast between the two became even starker in the centuries after *circa* 400 B.C. when the *polis* experienced a profound political crisis and the mercenary soldier and the pirate became dominant social forces in the Greek world. Hence it is not fortuitous that all the earliest references to *latro* in Latin, which are contemporary with this third- and second-century Hellenistic world (for example, in the plays of Plautus and Terence, who wrote under the direct influence of Hellenistic models), mean "hired man" in the precise sense of "hired gun". The point is that *latro* had now come to mean, generally, a "hired man of violence" who, as a mercenary, conducted his contractual labour under the umbrella of state authority.[68]

As a wage labourer and as an outsider who had no ideal attachment to the community that used him, the mercenary was doubly despised as a social inferior. These precise historical circumstances, therefore, created a typology of men of violence who were connected to a state and yet who stood outside its community. The historical process by which the term *latro* then came to signify the "non-contractual" cases alone is now easy enough to understand, since in its development the Roman state followed a pattern quite distinct from that of the Greek *polis* — not just in the way in which it achieved unchallenged domination over all surrounding political communities, but also in its control of the whole field of legitimate violence. To understand the importance of these developments we must first recapitulate the principal characteristics of the *latro*-mercenary: he was a man who "belonged" to a state via the mediating factors of violence, legitimation, receiving pay for fighting, and being an outsider to the community of the state that employed him. But the Roman state in its development moved first to the formation of a permanent full-time citizen army and finally, in the late Republic and early empire, to a full-time professional army where the criterion of citizenship was reduced to a mechanical formality.[69] Both the factors of the bulk of the force and its professionalism tended to rule out common recourse

[68] See Glare, *Oxford Latin Dictionary*, s.vv.; *Thesaurus linguae latinae*, vii, pp. 1015.I, 1017.II, s.vv.; in antiquity Isidorus, *Etymologicum magnum*, 10.159, offers a false etymology from *latere* ("to hide").

[69] On the process of the development of a professional army and its demands, see P. A. Brunt, *Italian Manpower, 225 B.C.-A.D. 14* (Oxford, 1971), pp. 405 f.; E. Gabba, *Republican Rome, the Army and the Allies*, trans. P. J. Cuff (Oxford, 1976), chs. 1-2; and, above all, K. Hopkins, *Conquerors and Slaves*, vol. i, *Sociological Studies in Roman History* (Cambridge, 1978), ch. 1, pp. 25-37.

to mercenaries who were never an integral part of the Roman system of state violence. In fact the new professional Roman soldier largely usurped two of the major characteristics of the mercenary: he was a man who fought for pay under the legitimizing aegis of a state. But as a *miles* he was an insider to the community. That left the only other characteristics of the mercenary, those of being an outsider and of personal violence. Thus the word *latro* was left, by a process of elimination, to define this type of man alone. The paid professional soldiers who now constituted the core of the Roman imperial army were in a real sense the "mercenaries". *Latro* was now a pejorative term left to designate private men of violence who were outsiders to society but who were still linked to it by some of the factors on the original spectrum that had included mercenaries. Hence they were never total outsiders or "enemies".

Thus there are two ends of the spectrum that apply to the problem of banditry: state men of violence and private men of violence. Let us begin with the former. In a state the army and individual soldiers are the most naked and direct instruments of legitimate force. Each soldier has the exercise of lethal force at his fingertips. The problem is: when is this force being used legitimately? Superficially state soldiers do not seem to perform different work from mercenaries and, as stated above, as the Roman empire grew its soldiers became more and more like paid professionals and less and less like the ideal of the selfless peasant soldier of the early Republic. Every index we have of soldiers' ambitions in the late Republic and early empire points in the direction of betterment of their contractual terms of service including, above all, pay.[70] Increasingly, therefore, there was little except the sanction of the state that separated the roles of "regular soldier" and "mercenary" or *latro*. At the other end of the spectrum any private person who had access to, or actually resorted to, instruments of force was a *potential* bandit. In this case too state sanction made all the difference. But perhaps it would be best to begin with the obvious case — that of men who directly *crossed* the thin line of legitimacy, from being soldiers to being bandits. There

[70] On the whole, the theme of "land and army" in the later Republic has been approached with too narrow an emphasis on the putative rewards for soldiers and/or their supposed demand for land in the precise sense of land to be used by themselves as peasant farmers. The entire story of land settlement by state organizations in antiquity argues for a quite different hypothesis — one of *deliberate control* of violent men by *fixing* them in settled communities; see, for example, Plutarch, *Life of Pompey*, 28.3-4: he was not rewarding veterans. For the later Roman empire, see G. E. M. de Ste. Croix, *The Class Struggle in the Ancient Greek World* (London, 1981), appendix 3, pp. 509-18. For some traditional accounts, see P. A. Brunt, "The Army and the Land in the Roman Revolution", *Jl. Roman Studies*, lii (1962), pp. 69-85; E. S. Gruen, "The Plebs and the Army", ch. 9 in his *The Last Generation of the Roman Republic* (Berkeley, 1974), pp. 387-404.

are various type cases, but analysis here will be restricted to two of the most common — veterans and deserters.

First, the case of the veterans. The reasons for their flight into brigandage are easy to discern. They were men who had spent a lifetime as professionals of violence in the service of the Roman state. But when they retired the bonuses and savings they had accumulated were sometimes insufficient for an alternative way of life. Even if they received a land grant (often they did not, or when they did the land was of poor quality) the question then arose: how willing would life-long soldiers be to become peasant farmers at the end of their working life? One can only note, in an analogous case, Cicero's realistic, if crass, assessment of Rullus' land bill in 63 B.C. It would not succeed in its aim of agrarian reform, Cicero claimed, even if it did pass, because the urban mob no longer knew how to farm or indeed even desired to return to the land.[71] For some veterans, therefore, there must have been a strong temptation not to retire but to continue practising their life-long skills, only now outside the aegis of state sanction. One must suspect that the numbers were small (the army was willing, it seems, to keep men under colours after retirement age) but it is a recurrent pattern. Pressures of this type were considerably exacerbated in the aftermath of large-scale recruitment and demobilization (for example, after periods of extended civil conflict).[72] When soldiers did seek to retire the options open to them of a continued life with the same rewards, perquisites and privileges they had previously enjoyed were few. Indeed, the law codes envisage only two alternatives: the cultivation of land and the investment of money in "honourable and honest" business enterprise. They say nothing about veterans continuing employment as men of violence in the private hire of landlords, in which role they could continue to abuse and prey upon defenceless commoners as they had formerly done. These same laws, however, note with disgust that some soldiers preferred to become bandits "because of laziness" (*neglegentia vitae*).[73]

A related and probably more common phenomenon is that of men deserting the army to take up a life of banditry. Often there is a problem of distinguishing the causes for this behaviour from those hedging one of its most common contexts — the flight to local leadership in resistance to Roman rule, especially in the immediate aftermath of Roman conquest. In the latter situation we find a constant movement of local men of violence and local leadership in and out of the cadres of the auxiliary forces employed by the Roman

[71] For example, Cicero, *On the Agrarian Law*, 2.27 (71).

[72] The countervailing pressures are reflected in soldiers' complaints in Tacitus, *Annals*, 1.17, 31, 35, 46, and in Augustus' policy of large-scale settlement of surplus military manpower; see his *Res gestae*, 3 and 28.

[73] *CJ* 12.46.3 (A.D. 353); cf. *CTh* 7.20.7.

army.[74] But even regular army service was harsh for the foot-soldier and needs to be viewed as a career which might or might not be worth the rewards in a given situation — a context that certainly replaced the old Republican ethos of citizen service with one stressing the professionalism of armed labour. The bad conditions included not only the normal duties, dangers and discipline, but also an entrenched system of bribes, exactions, and brutal treatment by superiors.[75] An even bigger problem, however, was the "enforced desertion" of large numbers of men from the cover of legality by the shifting boundaries of state power. Any period of crisis in the central state led immediately to problems of legitimate supply and governance in which local communities sought local solutions. One reaction was the creation of autonomous regional armies and commanders that had competing claims to centralist legitimacy. Since taxes and other requisitions that supported the central government tended to be highly localized both in their collection and redistribution, legitimacy of service and supply was virtually everything that was at stake. In the case where one of these local potentates managed to assert his supremacy as emperor, large numbers of soldiers and whole regions of requisition immediately became illegitimate. Whole army units could find themselves classified as deserters, then bandits, and so cut off from legitimate sources of pay and provision. Unless such soldiers were willing to become civilians and recycle through the social system, they were compelled to a life of brigandage. The process can be observed on a large scale during any period of so-called "civil war" in the Roman state, but the plain fact is that it was happening in miniature all the time and in every region.[76]

Soldiers, therefore, offer an excellent illustration of the creation of bandits by the shifting frontiers of the definition of authority within the state itself. Bandits, however, could also be found "outside" the state structure if a second factor is considered, namely the practical limits at which the state could actually enforce its self-defined mandate in geopolitical terms. A good example of this source of banditry is the imperfect control of the central state over whole geographic regions which were surrounded by its forces but which were otherwise inadequately penetrated by its institutions. The reasons for this incomplete state domination were mostly technological: the recalcitrance of the terrain to control by the primitive instruments of communication at the disposal of the archaic state. This disjunction took two main forms: a weak form marked by the

[74] On the recruitment of rebel leaders from ethnic recruits in the auxiliary units of the Roman army in the immediate post-conquest period, see Dyson, "Native Revolt Patterns in the Roman Empire".

[75] See, for example, Tacitus, *Annals*, 1.46, and n. 72 above.

[76] See MacMullen, "Roman Concept Robber-Pretender", who, while documenting the concept, reveals the reality of another process.

partial integration of highland lords and their economic networks, and a strong form marked by an almost total separation between the two worlds. The weaker form of disjunction was found throughout the empire, especially in mountainous highlands where geographical isolation was compounded by the presence of a well-developed economy of transhumant pastoralism as, for example, in southern Italy, Sicily and Sardinia. In this context Hobsbawm is surely right to claim that it is the very *fixity* of peasant farmers which makes them so eminently exploitable. His corollary that any type of *movement* in and of itself provokes an element of freedom congenial to banditry is more than adequately attested in antiquity.[77] It is this factor of movement that is critically important in regions of diminished state control. In addition to pastoral nomads, highland shepherds represented a social group that was integrated socially and economically into the wider imperial system and yet which, because of its peculiar economic organization, was freed from most political constraints.[78] Hence the equation "shepherd equals bandit" comes close to being one that is true for all antiquity.[79] Indeed, the very type of social organization that characterized highland shepherd communities enabled them to constitute the driving force behind three or four of the largest slave uprisings documented in all ancient history.[80]

The crime most frequently attributed to shepherd-bandits is that of rustling (*abigeatus*). It was so inextricably associated with bandits that it was not regarded as common theft (*furtum*) but as a more aggravated type of crime. Rustling therefore incurred the most severe penalties. The emperor Hadrian decreed to the provincial council of Baetica (southern Spain, where the problem was endemic) that condemnation to the mines or execution was the normal penalty. But there were problems with such an absolute system of penalties since the bandits obviously had wide links with parts of society that were considered legitimate. Such links bound them to the local powerful and wealthy in whose employment they were found. Consequently the law was compelled to recognize this wider nexus of power networks that encompassed bandit-shepherds, landowners and receivers in a regional market in animals and private protection.

[77] Hobsbawm, *Bandits*, pp. 30 ff. On movement as one of the three or four basic constituent elements of "freedom" in the ancient world, see the *paramonê* agreements from Delphi: W. L. Westermann, "Between Slavery and Freedom", *Amer. Hist. Rev.*, l (1945), pp. 213-27.

[78] For the organization of highland pastoralist groups, and their integration into the villa economy of powerful landowners, see the description in Varro, *On Agriculture*, 1.2.12-18, 1.23 ff.

[79] Both in law (for example, *CJ* 9.2.11, "id est pastorum latronumve", "that is, of shepherds or brigands") or in the general literature (cf. the ironic reversal of roles suggested by the shepherds in Fronto, *To Marcus Caesar*, 2.12; Naber, p. 35: Loeb, i, pp. 150-3).

[80] See the account in Livy 29.29.8-10 for the rebellion of 185 B.C. and the literature cited in n. 110 below for the Sicilian revolts.

An exception then had to be made in the case of those receivers who were none other than members of the landowning élite. If culpable middlemen were of higher social status (*honestiores*) they were only to be relegated (a lesser form of exile) or suffer loss of their status and/or property.[81]

But attempts to control highland brigandage by these and other means brought no final long-term solution. By the fourth and fifth centuries A.D. the central government was driven to desperate measures in Italy itself in an attempt to control shepherd bandits in the southern regions of the peninsula: Lucania, Picenum, Samnium, Apulia and Calabria. It struck at the central natural advantage of the shepherds — their freedom of movement. Specifically the government sought to deny the use of horses to them. All persons "except senators and high-ranking imperial officials, administrators of provinces, veterans, decurions and others performing imperial service under arms" were denied the use or ownership of horses.[82] Collaboration with landowners is explicitly recognized as part of this system of highland banditry since the *domini* are specifically warned against providing horses to potential bandits, in this case their own shepherds.[83] Finally, in recognition of an almost congenital disposition to banditry in these highland zones, the state warned all persons, including the wealthy, against sloughing off unwanted children on shepherds, in the certainty that they too would be raised as future bandits.[84]

Both soldiers and armies in the very heart of the system of state power, and the peripheral and incompletely integrated highland pastoralists, illustrate the inability of the archaic state adequately to define its self-defined mandate of authority. The problem of defining the limits of civil strife was another severe difficulty that always troubled the Roman state, especially during periods of civil war.[85]

[81] *Dig.* 47.14.2.; see 47.14.1.pr.-3 for quantitative assessment of penalties — ten or more sheep, four to five pigs, one horse or cow stolen would mean *abigeatus* rather than *furtum*. On *abigeatus* in general, see *Comparison of the Laws of Moses and the Romans*, 11 "On rustling", 2 (= *Sententiae Pauli*, 5.20, 3.2), 3, 7.5 (on regional variations in penalties), 8 (= *Dig.* 47.14.1-4); cf. Hartman, "Abigeatus", *RE* i (1894), col. 97.

[82] *CTh* 9.30.1 (A.D. 364) and 9.30.4 (A.D. 365). On this and the other laws cited below, see the two studies by F. M. de Robertis, "Prosperità e banditismo nella Puglia e nell'Italia meridionale durante il basso impero", in M. Paone (ed.), *Studi di storia pugliese in onore di Giuseppe Chiarelli*, 7 vols. (Galatina, 1972-80), i, pp. 197-232, and "Interdizione dell'*Usus equorum* e lotta al banditismo in alcune costituzione del basso impero", *Studia et documenta historiae et iuris*, xl (1974), pp. 67-98.

[83] *CTh* 9.30.2. (A.D. 364) in addition to the sources cited in n. 81 above.

[84] *Ibid.*, 9.31.1 (A.D. 409).

[85] See the studies by P. Jal, "*Hostis* (*publicus*) dans la littérature latine de la fin de la République", *Revue des études anciennes*, lxv (1963), pp. 53-79; "*Bellum civile* . . . *bellum externum* dans la Rome de la fin de la République et au début de l'empire", *Les études classiques*, xxx (1962), pp. 257-67, 384-90; "Le 'soldat' des guerres civiles à Rome à la fin de la République et au début de l'empire", *Pallas*, xi (1962-4), pp. 7-27; and *La guerre civile à Rome: étude littéraire et morale* (Paris, 1963). On the latter, see the critique by P. Pouthier, "La guerre civile à Rome: aux confins de l'histoire et la littérature", *Annales. E.S.C.*, xx (1965), pp. 1216-21.

The long period of intra-state conflict that broke out in 49 B.C. with the break between Caesar and Pompeius Magnus, and which did not end until eighteen years later at Actium, is one such period characterized by a noticeable increase in bandit activity. The extreme precariousness of the authority of the central state led not only to outbreaks of brigandage, and to its quasi-institutionalization in the heartland of the empire, but also to rampant accusations of banditry and piracy directed at opponents whose claims to political legitimacy were to be brought into doubt.[86] In 36 B.C., some time after Octavianus had asserted his supremacy over one such opponent in the western Mediterranean, the "pirate" Sextus Pompeius, there were still armed groups of bandits operating at will within Italy itself:

> This seemed to be the end of the civil chaos. Octavianus was now twenty-eight years old. Cities joined in naming him among their guardian gods. At this time Italy and Rome itself were openly infested with brigands whose actions were more like those of barefaced plunderers than those of common thieves. Sabinus was chosen by Octavianus to bring the situation under control; he executed many of the bandits he captured and, within one year, re-established conditions of absolute law and order. At that time, according to tradition, the practice and system of night-guards originated which is still in force. Octavianus elicited great astonishment by putting an end to this social evil with such unparalleled speed.[87]

Augustus' biographer Suetonius adds detail, confirming that the type of violent uncontrolled behaviour that had been created by the civil wars simply continued unabated into times of peace and order. Many highly mobile men of violence (*grassatores*) paraded about openly armed with swords "on the excuse", says Suetonius, "of self-protection". These armed bands were both entrepreneurial and tied by links of dependency to local men of power. They went about seizing without discrimination both slaves and free men and throwing them into the slave prisons (*ergastula*) of wealthy landlords.[88] Augustus sought to control this type of brigandage in three ways. First, he placed police detachments of the army (*stationes*) at strategic points throughout Italy. Then he conducted investigations into the cases of men who were being held in the slave prisons of Italian landlords. And lastly he took severe measures against all illegal associations or gatherings (*collegia*).

This successful case of state repression was directed at two separate levels — at the usurpation of the power and authority of the central

[86] Augustus, *Res gestae*, 25.1 ("mare pacavi a praedonibus"); cf. Velleius Paterculus, 2.73.2; T. Rice-Holmes, *The Architect of the Roman Empire* (Oxford, 1928), pp. 106-16.

[87] Appian, *Civil War*, 5.132; see *Appiani bellorum civilium liber quintus*, ed. E. Gabba (Florence, 1970), pp. 218-22; for C. Calvisius Sabinus, who bore the title of *praefectus* (cf. n. 26 above), see *CIL*, i, 2nd edn., 1860 = *ILS* 2488 = *Inscriptiones latinae liberae rei publicae*, 500 (Amiternum) and Broughton, *Magistrates of the Roman Republic*, 2 vols. (New York, 1952-60), ii, p. 401.

[88] Suetonius, *Life of Augustus*, 32; Dio 49.43.5 (33 B.C.) probably refers to a formal amnesty granted to such men for their *latrocinium*, though Dio says that for some it amounted to a licence to continue their involvement with brigandage.

state by baronial lords and at the prevention of any sort of assembly that might become subversive in nature. The two approaches were integrally connected in that such "gatherings" (that is, the bandit gangs) were clearly in the service of the local powerful who both used and protected them. But it is most unlikely that these measures succeeded as dramatically as later laudatory writers would have us believe. In fact, Augustus' successor Tiberius had to continue to strengthen the system of *stationes* to control further outbreaks of bandit activity.[89] The point of the literary accounts reported by Appian concerning Augustus' success against the bandits in Italy while he was still Octavianus is twofold — factual and ideological. Octavianus, like Pompeius Magnus before him, is portrayed as the anti-bandit. As in the case of Pompeius this portrait emphasizes two themes. First, the distance between the legitimate ruler and the bandit. The ruler himself does not deign to chase and suppress the bandit; rather, he delegates the task to subordinates who carry out the inferior task of policing for their master. But the second, opposite, characteristic of the account is that the glory of their achievement reflects directly on the ruler. As with Pompeius' suppression of pirates in the Mediterranean in 67-6 B.C., Augustus' control of brigands in Italy is achieved so quickly and so completely that it evokes gasps of astonishment and admiration.[90]

During any period of upheaval such as civil war the whole process whereby legitimacy flowed downwards through the political system by a process of state definition, finally to be invested in the hands of the individual soldier, could be reversed. In periods of the near total collapse of central state authority it could theoretically be reversed all the way back up the system. In practice the reversal could be made deliberately and consciously by the state in cases where it extended legitimacy to men whom it would otherwise have defined as outlaws. "Maecenas' advice" to the emperor Augustus (actually a programme composed by the historian Dio Cassius about A.D. 215) was to enroll men in the Roman army who were of the greatest physical strength and who were most in need of a livelihood, men who would otherwise be most likely to turn to a life of brigandage.[91] It was not just the hypothetical advice of a utopian historian; actual army recruitment in the provinces, especially of the so-called auxiliary units, seems to have been determined by much this mode of choice. And some emperors are actually said to have recruited

[89] Suetonius, *Life of Tiberius*, 37.1; see Strabo 4.6.6 (C 204) on Augustus' programme of *stationes* and road-building used to crush Alpine banditry.

[90] See Plutarch, *Life of Pompey*, 24-29, 30.1, and the works cited in n. 14 above; compare the image of Jesus as the "Good Shepherd", protecting his flock from bandits: John 10.1, 7-11.

[91] Dio 57.27.4; cf. the remarks by P. A. Brunt, "Conscription and Volunteering in the Roman Imperial Army", *Scripta classica israelica*, i (1974), pp. 94-5.

soldiers from bandit gangs by a wholesale recognition of their status. Thus Marcus Aurelius is reported to have turned the bandits of Dalmatia and Dardania into regular soldiers in the Roman army.[92]

This process involved the absorption of the threat of local men of violence by the simple expedient of incorporating them within the forces of the state. In a sense it was a pattern that was already to be found in relations between local Mediterranean communities and peripheral violent elements in them; the state process therefore is only a regional one writ large. It was not one limited to Rome, nor indeed to the troubled times of the middle empire. Massinissa, one of the first African "kings" to appear in the Maghrib during the period of Rome's wars with Carthage (*circa* 225-150 B.C.) was reputed to have founded one of the first indigenous states in north Africa. He was also renowned, in ideological portraits of him, for having changed bandits into regular soldiers. But earlier, during his rise to power, Roman historians portrayed Massinissa himself as a wandering bandit. In this period they say that the Carthaginians turned to another African "king" named Syphax to hunt Massinissa down. Syphax, however, claimed that it was unbecoming for a true king like himself to pursue a mere "bandit" like Massinissa. Instead, he delegated the task to a subordinate.[93] Examples of this type could be multiplied many times over; they are more than sufficient to demonstrate a pattern in ancient Mediterranean society that was not just a peculiarity of the Roman state.

The pattern suggests an ebb and flow of state-defined power in the ancient Mediterranean which automatically created, in the very process of definition, groups of men called bandits. In this ebb and flow there was a constant crossing of boundaries provoked, above all, by the intrusion of expanding states into local societies, with attendant social disruption, above all on the land.[94] But it was a process that was not restricted to peripheral Mediterranean communities caught up in the throes of state incorporation; it was happening all the time to the most powerful state in that world, the empire of Rome. During the metamorphosis of Roman state structure in the

[92] *Life of Marcus* (*SHA*), 21.2.7; see A. Mócsy, "Latrones Dardaniae", *Acta antiqua Academiae scientiarum hungaricae*, xvi (1968), pp. 351-4; cf. A. Mócsy, *Gesellschaft und Romanisation in der römischen Provinz Moesia Superior* (Amsterdam, 1970), pp. 194-8; in Marcus' reign, probably in connection with this policy, a special army commander was sent into this same region to deal with bandits: H.-G. Pflaum, "Deux carrières équestres de Lambèse et de Zana (Diana Veteranorum)", *Libyca*, iii, (1955), p. 135 f., "aucto salario adeptus procurationem Moesiae inferioris eodem in tempore praeposito vexillationibus et at detrahendam Briseorum latronum manum in confinio Macedon[iae] et Thrac[iae] ab Imp[eratore] misso . . ." ("having received the procuratorship of Lower Moesia at an increased salary and at the same time put in command of troops drawn from the legions and sent by the emperor to dislodge the band of Brisean brigands on the borders of Macedonia and Thrace . . .").

[93] Livy 29.31.12; cf. 29.32.11-12.

[94] See Dyson, "Native Revolt Patterns in the Roman Empire".

mid-third century A.D. when the power and authority of the central state came most into question, local men of power who otherwise would have been stigmatized as bandits usurped aspects of state power (for example, the ideology and imagery of strength, protection, beneficence, and dispensation of justice) and gradually entered the realm of formal state authority.

Indeed the lines of power might be so reversed that the bandit would become emperor of Rome. Consider the career of one of the ephemeral rulers of Rome in the period, Maximinus ("Little Big Man") the Thracian:

> In his early youth he was a shepherd, a young man with an impressive and noble appearance; later he went on raids with bandits and protected locals from attacks. He then entered the Roman army and served his *stipendia* in the cavalry. He was conspicuous for his large body size, outshone all other soldiers in bravery, was handsome in his manliness, wild in manners, harsh, arrogant, contemptuous, but nevertheless a man of justice.[95]

In other circumstances a Godfather, in the mid-third century he became emperor of Rome. Contrast his career with that of two other risen bandits: Tacfarinas in north Africa in the A.D. 20s and the Spanish strongman Viriathus in the 140s and 130s B.C. The latter's rise is succinctly summarized in Livy as: *ex pastore venator, ex venatore latro, mox iusti quoque exercitus dux factus* ("from shepherd a hunter, from hunter a bandit, and then soon the general of a real army"). Almost the same career stages are outlined by Tacitus for the African bandit-chief Tacfarinas: first a shepherd, then a soldier, then a bandit, then the general of a real army.[96] The only difference between these men and Maximinus is that the Roman state effectively maintained its categorization of them as bandits and never contemplated absorbing them within the structure of the state, much less making them emperor. They were simply repressed.

There is yet another strand in the outbreak of bandit activity in Italy alluded to by Appian in his account of its repression by Octavianus: the ambiguous position of bandits between the local community on the one hand and the central state on the other. It is now an accepted observation that bandits who operate either on a large-scale or for an extended period of time must have one of two bases of support outside their gang: either local communal support or the covert support of the powerful (preferably the latter). If popular support is the base, then the operational radius of the bandit gang is restricted to the local region where the bandits are known, and where they know the terrain and the people. In most ancient and modern cases where bandits are successfully hunted down, one of the major causes of their final demise is the abandonment of a regional base, either by choice or by compulsion. Almost every

[95] *Life of Maximinus* (*SHA*), 2.1.
[96] Livy, *Periochae*, 52; Tacitus, *Annals*, 2.52.

Roman legal text on the subject *assumes* the existence of at least one of these two bases of support. In the case of veterans and deserters this was a natural consequence of their background since, from the early second century, most army recruiting and posting was local in character. Shepherds too would habitually operate in the same region in which they laboured on a day-to-day basis. The government knew that it had to neutralize this natural local support by a two-pronged attack: on the kinship links bandits maintained and on broader community connections. It was expected that innocent persons might be harmed in military operations against bandits, but commanders were cautioned against indiscriminate use of force; this was to be avoided at all costs since it would only further alienate the local populace from the central government.[97]

Other aspects of this continuous linkage with "straight" society can also be seen in smaller scale in the daily operation of the bandit gangs. A specific form of contact frequently referred to in our sources is the *receptator* ("receiver") as he was called in Latin, our "fence". In several laws, including the general instructions issued to provincial governors, *receptatores* are seen to represent a wider type of collaboration with bandits that was critical to the continued successful operation of bandit gangs. They must especially be hunted down because, as one law phrases it:

> *Receptatores* are the very worst type of men, since without them no man would be able to remain hidden. Thus receivers are punished (with the same penalties) as the bandits themselves. All those persons who could have apprehended the bandits but who let them escape, having received money or part of the loot, are to be treated as in this same category.[98]

That is to say, the law assumes that the receiver and other latent supporters were as culpable as the bandit himself and therefore deserved the same punishment. But there were real problems with this injunction. There were many (more) laws in which it was recognized that *receptatores* were none other than the wealthy and powerful in local society. The laws on rustling mentioned above, for example, had to specify that receivers were to be punished "in accordance with their social rank": by exile from Italy for a period of ten years or some other less aggravated form of punishment.[99] Then again, blood relatives also had to be treated more leniently, given the counterclaims of kinship in Roman law and society, since it was expected that they would be compelled "by nature" to support bandits who were relatives of theirs.[100]

The wide range of these normal contacts with local society meant

[97] *Cf* 9.39.2.3 = *CTh* 9.29.2.3 (A.D. 383-91).

[98] *Dig.* 47.16.1; cf. *Sententiae Pauli*, 5.3.4; *CTh* 7.1.1 (A.D. 323); on *receptatores*, see O. Eger, "Receptator", *RE* i.2 (1914), col. 354; G. Humbert and C. Lecrivain, "Receptator", in *Dictionnaire des antiquités grecques et romaines*, iv.2 (1908), p. 815.

[99] See *Dig.* 47.14.3.3 (an *epistula* of Trajan); cf. n. 81 above.

[100] *Dig.* 47.16.2.

that bandits posed no ordinary problem of law and order since both peasants and landlords often saw bandits as something quite different from common criminals. Even so, the bandit appears in our texts as a most vulnerable and dependent man. Ultimately bandits had to find one of two solutions other than death: either some form of reintegration with peasant society from which they had sprung or some form of co-operation with the politically powerful. The whole range of evidence from the Roman empire powerfully suggests that the latter process was the dominant one and that it constituted the core relationship of bandits to political society.[101] Laws repeatedly refer to bandits who operate with the covert (or even overt) support of landlords and powerful municipal men. One law warns that the central state must have some type of extra-communal, disinterested force at its disposal in order "to abolish the protection of the powerful over armed criminals and bandits".[102] Another law, a general one directed against "anyone who knowingly receives bandits or who hesitates to hand them over to the courts", mentions punishments that are both corporal and punitive of wealth. Which of the two is to be imposed is at the discretion of the Roman magistrate based on his assessment of the defendant's social status. This clearly suggests that *honestiores* or persons of high social rank (of town decurion or higher status) were supporting bandits.[103] The pattern is evident in several other laws that caution landlords (*domini*) and their agents and estate managers (*procuratores*) against harbouring bandits on their lands and extending their protection (*patrocinium*) to violent men.[104] Corollary laws mention the patronal protection of men who were potential bandits (for example, army deserters) in much the same circumstances.[105] The problem was no simple one since landowners might have forces at their disposal that were superior to those which could be marshalled by regional officials of the state. And it was not

[101] The element of co-optation of bandits seems to be emphasized inadequately by Hobsbawm, *Bandits*, pp. 91 ff., where he tends to stress the opposite process (landowners having to come to terms with bandits), whereas in the pages immediately following and in ch. 7, "Bandits and Revolution", his evidence seems to support the interpretation of Blok, "The Peasant and the Brigand", that the bandit was almost invariably the weaker of the two parties in such relationships and was therefore drawn into networks of patronal domination. This much, at least, emerges from historical analyses where the full details of the conditions under which a bandit operated are known; see the brilliant article by L. Lewin, "The Oligarchical Limitations of Social Banditry in Brazil: The Case of the 'Good' Thief Antonio Silvino", *Past and Present*, no. 82 (Feb. 1979), pp. 116-46.

[102] *CTh* 1.29.8 (A.D. 392); on this patronal protection of outlaws by the powerful in late Roman society in the west, see T. B. Andersen, "*Patrocinium*: The Concept of Personal Protection and Dependence in the Later Roman Empire and the Early Middle Ages" (Fordham Univ. Ph.D. Thesis, 1974), ch. 4, with full reference to earlier work by Martroye, de Zulueta and Harmand.

[103] *CTh* 9.29.1 (A.D. 374).

[104] *CJ* 9.39.2 (A.D. 451); cf. *CTh* 9.29.2 (A.D. 383-91), 1.55.6, and *Dig.* 48.19.27.2.

[105] See *CTh* 7.18.7 (A.D. 383), 7.18.10 (A.D. 400), 7.18.14 and 7.18.15 (A.D. 406).

limited to the period of our best information on the phenomenon (the legal codes of the fourth century and later). The laws are substantiated by a stream of information from other literary sources that detail precisely this sort of action taken by landlords and their agents from Sicily and southern Italy of the Republic to Gaul of the later empire.[106]

Both the landlords at one end of the spectrum and local communities at the other indicate the *location* of banditry in imperial society. It lay in the interstices between local army commanders, town decurions, landowners and their agents, officials of the state, and the general populace of town and countryside. It was the great utility of banditry to all these social groups that produced varying degrees of toleration of it by a wide range of persons in the regional societies that constituted the empire. A classic example of this process on a grand scale is the limited toleration of piracy by the Roman state for a period of about a century (*circa* 160s-60s B.C.) in the whole region of the eastern Mediterranean. In the aftermath of the destruction of the major Hellenistic kingdoms in the area, and the severe curtailment of the power of the remaining minor states, Rome simply withdrew, leaving an enormous power vacuum. Piracy blossomed to fill the gap. Some of the major pirate groups rose to the power and size of small states.[107] Toleration was extended to the pirates partly because it was useful for the Roman state to do so. The pirates were a disruptive force in the eastern Mediterranean and acted as a natural check on the possible resurgence of Hellenistic states. They provided the desired effect of a permanent state of lawlessness, a perpetual justification for Roman military intervention in the region. Another perhaps not unforeseen consequence was the emergence of the pirates as large-scale suppliers of slaves for the latifundist estates of wealthy Romans and Italians in southern Italy and Sicily. In most cases the slaves were obtained in violent raids and massive kidnapping operations conducted by the pirates who preyed on the free citizenry of the victimized and largely defenceless Hellenistic communities.[108] Only when the pirates became so big that they actually began to pose a threat to the Roman state itself did the ruling order actively seek

[106] For Gaul, see Ausonius, *Letters*, 14.22-27; for Sicily, see n. 110 below.

[107] Plutarch, *Life of Pompey*, 24 f.; Strabo, 14.5.1 f. Omerod, *Piracy in the Ancient World*, pp. 233 f., gives some of the details; cf. Broughton, *Magistrates of the Roman Republic*, ii, p. 146 (67 B.C.).

[108] Strabo, 14.3.1 f. (C 664); see E. Maróti, "Der Sklavenmarkt auf Delos und die Piraterie", *Helikon*, ix-x (1969-70), pp. 24-42; E. Maróti, "Die Rolle der Seeräuber in der Zeit der Mithradatischen Kriege", in *Ricerche storiche ed economiche in memoria di Corrado Barbagallo*, 3 vols. (Naples, 1970), i, pp. 481-93. As the complaint of King Nicomedes of Bithynia makes clear (Diodorus Siculus 36.3) the kidnapping operations of the pirates were devastating the general populace of at least some regions in the east. It might also be noted that the pirates were said to act in open collusion with the *publicani* or the local "free enterprise" agents of the Roman state.

their repression. But when this decision was taken there were other factors (for example, a new series of foreign wars of annexation in the east, new sources of slaves, the political aspirations of Roman big men) that made the repression of piracy an attractive option.[109]

In sectors of Roman society not directly representing the state, in the nexus of large-scale private interests, one can also perceive the same process of the deliberate creation of banditry by the landowning classes. In Sicily in the decades preceding the 140s B.C. Roman and Italian landowners consciously established their slave-shepherds in the practice of banditry as a form of economic self-help.[110] Freelance raiding and pillaging, encouraged by the landowner, allowed the *dominus* to escape onerous burdens connected with the surveillance and maintenance of distantly roaming bands of his slave-shepherds at the expense of unprotected village and farm dwellers who became the object of widespread bandit attacks. Consequently Sicily was reduced to an island infested with slave-shepherd brigands who wandered at will throughout the land "like bands of soldiers". The collapse of the local society of a Roman province into chaotic violence was hardly to the interest of the central state. But there was an unreconciled conflict between the interests of the large landowners (in the unbridled domanial power and direct control of their slave work-forces) and the state's interest in law and order. Protests by the Sicilian provincials to the Roman governor about this rising tide of violence were in vain. The governors hesitated to enforce the mandate of the state and to repress brigandage principally because of the pressure brought to bear on them by the landowners.[111]

Given all these facts about this form of weak disjunction within the Roman state and the place of banditry within it, we may begin to question the role of bandits as primitive rebels if we consider the *structural form* of the social violence in which they were engaged. It

[109] See H. Strasburger, "Poseidonios on Problems of the Roman Empire", *Jl. Roman Studies*, lv (1965), pp. 40-53.

[110] See Diodorus Siculus 34-35.2.25 f. and the study by M. Capozza, "Il brigantaggio nelle fonti della prima rivolta servile siciliana", *Atti dell'Istituto Veneto di scienze, lettere ed arti*, cxxxiii (1974-5), pp. 27-40. The problem of the obvious connection between the two forms of social violence, slave revolts and banditry, is very complex. There is no doubt that the slave-shepherds were involved in bandit-type actions, but it seems difficult to classify them fully as "bandits" as long as their economic and legal status remained tied to a *dominus* who owned them as slaves. So long as that bond remained operational, and they were bound by the master-slave nexus, they must be viewed *primarily* as slaves, not as bandits. There must be a break in this fundamental relationship for the full bandit to emerge. The problem is that slave-shepherds, by the actual conditions of their existence and employment, were always living on the borderline of that break. As long as they continued their links with their owner, therefore, their status remained ambiguous. When they actually broke into open rebellion (that is, severing the master-slave relationship) it was *qua* slaves rather than as "bandits", and indeed the latter relationship, or rather behaviour, would hardly have any meaning.

[111] Diodorus Siculus 24-25.2-3.

seems better to use this as the criterion for judging their place in the whole of the political economy, rather than the isolated actions of individual bandits, for these are most difficult to judge both in terms of intent and meaning behind the actions. Whereas it is true that bandits are found attacking the houses and villas of the wealthy and powerful, both in historical and fictional accounts of their activities, the real problem is to assess the value of using the mention of these targets in isolation as a measure of the bandits' social motivation. Bandits would naturally direct some of their attacks on accretions of wealth in a mode similar, at least on some planes of behaviour, to common criminals. The epigraphical evidence of deaths at the hands of bandits indicates a range of victims that included personal slaves and freedmen household managers, municipal officers, soldiers and a whole family including a father, mother and a six-year-old child killed *causa ornamentorum* ("on account of their finery"). Edifices attacked include public granaries and storehouses (*horrea*), temples, tombs and ordinary houses.[112] Indeed, who was and was not attacked may well have depended more on the sort of "local arrangements" alluded to in an account of the *Maratocupreni* raiders whereby certain targets were exempt (in this case merchants and soldiers) whereas others were not (storehouses and villas of the rich).[113] Thus it does not seem that reports of attacks on centres of wealth are to be taken *as such* — as touchstones of social protest — especially when the raiding activities of bandits so vividly portrayed in the novelists mix such targets together with the killing and pillaging of ordinary commoners as part of the same process. The latter picture more convincingly matches our more detailed historical accounts such as the large-scale slave-shepherd brigandage in Republican Sicily and the kidnapping-slaving operations of the pirates, both of which involved large numbers of innocent common people as their victims.

The process of the expansion and contraction of state power, however, not only left considerable interstices in its internal social structure, but also sizeable spaces outside of it: the "strong" form of disjunction referred to above. That is to say, one can conceive of the Roman empire as consisting of two entities. One might be labelled "Roman society" — that network of social relations binding soldiers, peasants, administrators, landlords, traders and a host of others into a single social system. The second entity is the political system — the state, and the limits at which it set its authority. Yet the two entities never fully coincided or, expressed differently, "Roman society" never filled out all the territory defined by the "Roman

[112] See *CIL* viii, 15881 = *ILS* 5505 (Sicca Veneria, Africa); *CJ* 4.65.1 (A.D. 213), 6.38.1 (A.D. 213), 9.19.3 (A.D. 349); Josephus, *Jewish War*, 2.264-5, 652-4, and the epigraphical evidence on deaths cited in n. 25 above.

[113] Ammianus Marcellinus 28.2.11; cf. Josephus, *Jewish War*, 2.228-31; *Antiquities*, 20.113-17; and n. 119 below.

state". There was a gap or "space" between the two in precise cases where social groups which the state held to be incorporated were not in any sense an integral part of Roman society. This "strong" form of disjunction, as stated above, resulted most often from geopolitical factors that inhibited the state from effectively extending its networks of communication and control over whole regions. The abandonment of whole geographical zones led to the development of several different modes of relationship between the state and these "bandits".

In historical terms one finds the labelling of this or that people as "bandits" — that is, as not being part of Roman society even though they were claimed to be under Roman political domination. In the long-term history of the empire almost every people except the Romans themselves (most narrowly defined) were so designated. They were seen as persons who ought, ideally, to be within the orbit of Roman state control and yet who remained obstinately and rebelliously outside it.[114] Cultural groups, such as the *Boukoloi* of the desert borderlands and the delta swamplands of Egypt, remained "barbaric entities", foreign enclaves within the Roman state.[115] In large part the state attempted to institutionalize its relations with these bandits. Because of their effective power to remain beyond the reach of the state for long periods of time they achieved a sort of quasi-state status for themselves.[116] Basically these bandits are the "Haiduk" type, so-named by Hobsbawm after a characteristic form found in the Balkans under Ottoman rule.[117] Perhaps the best-documented long-term case of this type of banditry in the Roman empire is that found in Isauria. This highland zone in south-eastern

[114] A complete list would be exhaustingly long, so the following must suffice as an indication of the evidence. Aetolians (Cicero, *On the State*, 3.9.15; Livy 34.24.1-5), Arabs (Pliny, *Natural History*, 2.36.162), Bessi (Strabo 7.5.12), Bruttii (Livy 26.40.17-18, 28.13.7-9, 28.22.3, 29.6.2), Celtiberians (Diodorus Siculus 5.34.6-7), Chatti (Tacitus, *Annals*, 12.27.3), Coralli (Strabo 7.5.12), Cretans (Cicero, *On the State*, 3.9.15), Iberians (Diodorus Siculus 5.34.6-7), Illergetes (Livy 28.32.8-12), Illyrians (Livy 10.23, Ammianus Marcellinus 17.13.27), Isaurians (see n. 118 below), Istri (Livy 10.23), Liburnians (Livy 10.23), Ligurians (Livy 40.27.6, 38.49.7-8), Medes (Strabo 7.5.12), Mysi (Strabo 7.5.12), Quadi (Ammianus Marcellinus 16.10.20, 17.12.2), Samnites (Livy 7.30.12), Sardinians (Tacitus, *Annals*, 2.85; Varro, *On Agriculture*, 1.16.2), Sarmatians (Ammianus Marcellinus 16.10.20, 17.12.2), Scordisci (Strabo 7.5.12), Spaniards (Strabo 7.5.12), Thracians (Livy 38.46.6, 38.49.7-8). If pressed, the list would include, at one period or another, every people in the Mediterranean, including the Latins and Etruscans, other than the Romans themselves. The best study of the phenomenon is P. Briant, " 'Brigandage', dissidence et conquête en Asie achéménide et hellénistique", *Dialogues d'histoire ancienne*, ii (1976), pp. 163-258.

[115] For a discussion and the sources, see the scintillating article by J. Winkler, "Lollianus and the Desperadoes", *Jl. Hellenic Studies*, c (1980), pp. 155-81, at pp. 175 f. A full up-to-date study is required.

[116] An interesting case study is presented by H. F. Lutz, "The Alleged Robbers' Guild in Ancient Egypt", *Univ. of California Pubns. in Semitic Philol.*, x.7 (1937), pp. 231-41, of what seems to be the formalization of such relations instituted by the state.

[117] See Hobsbawm, *Bandits*, ch. 5, pp. 70-82.

Anatolia remained a region of permanent dissidence, from a period even before its nominal incorporation into the empire in the second century B.C. down to the period of the final disintegration of the western empire in the late fifth century A.D. It is clear that in all these cases the inhabitants of such zones never regard themselves as brigands, but rather as persons having a *negotiated* relationship with the central state which gave rise to ritualistic customs of respect and treatment on either side.[118] However, very large bandit gangs that were able to operate for long periods within the empire itself could, given the appropriate conjuncture of forces, approximate to the "Haiduk" type in their institutionalization of their own power. Such were the large bandit gangs in Judaea in the middle decades of the first century A.D., the *Saturiani* and *Subafrenses* of the late empire, and the *Maratocupreni* raiders of northern Syria.[119]

Hence there were always inherent threats to legitimate power from the bottom to the top of Roman state and society, a structural weakness provoked not only by the feeble instruments of central power, but also by conflicting interests at the level of private ownership. The very process of the expansion and contraction of the state itself only exacerbated the problem. In story and legend these conflicts of authority are symbolized as scenes of contact between the holders of legitimacy and those who threatened their claim. Thus the usurper emperor Septimius Severus, who used the springboard of a local *coup d'état* in the east to gain the throne in A.D. 193, had to maintain his pretentions to legitimate rule. He portrayed himself as "an enemy to bandits everywhere".[120] And yet while still governor of Syria and about to prepare his usurpation of power there occurred events that both portended and questioned his future:

> A certain bandit named Claudius who was overrunning Judaea and Syria and was being vigorously hunted down by Severus came to him one day disguised as a military tribune accompanied by a cavalry escort. He saluted and kissed Severus — but the trick was not found out then nor was Claudius ever caught later.[121]

[118] On Isauria, see J. Rougé, "l'Histoire Auguste et l'Isaurie au IV^e siècle", *Revue des études anciennes*, lxviii (1966), pp. 282-315; R. Syme, "Isauria", ch. 9 in his *Ammianus and the Historia Augusta* (Oxford, 1968), pp. 43-52; on the earlier period, see Diodorus Siculus 18.22, with the sources listed in Broughton, *Magistrates of the Roman Republic*, i, 568, 572, 576, and ii, pp. 87, 90, 94, 99, 105; Strabo 12.6.1 (C 568) and the general account in Ormerod, *Piracy in the Ancient World*, ch. 6, "The Pirates of Cilicia", pp. 190-247; for the later empire, see Ammianus Marcellinus 14.2.1-20, 14.8.1, 19.13.1-2, 27.9.6-7, 28.2.11-14, and Zosimus, *The New History*, 69, 4.20.1, and 5.25, with *CTh* 9.35.7.

[119] See Hobsbawm, *Bandits*, pp. 18 f. and compare Josephus, *Jewish War*, 2.228-35, 253; *Antiquities*, 20.5, 113-14, and 161; for the *Saturiani* and *Subafrenses*, see *CTh* 7.19.1-3, A.D. 399); and for the Maratocupreni, see Ammianus Marcellinus 28.2.11 ff., and N. Santos Yanguas, "Algunos problemas sociales en Asia Menor en la segunda mitad del siglo IV d.c.: Isaurios y Maratocuprenos", *Hispania antiqua*, vii (1977), pp. 351-78, for a different interpretation.

[120] *Life of Severus* (*SHA*), 18.6, "ubique latronibus hostis" ("an enemy to bandits everywhere").

[121] Dio 75.2.4 (195).

On the other hand such contact might be represented theatrically as a normalization of relations, a mutual recognition of authority. Thus in the reign of Augustus (perhaps at the time of his Spanish campaigns in the mid-20s B.C.) the historian Dio reports that:

> there was a bandit named Caracotta who flourished in Spain with whom Augustus was at first so enraged that he offered a million sesterces to the man who would capture him alive. But later, when the bandit came over to Augustus of his own accord, the emperor not only did him no harm, but actually made him richer by the amount of the reward.[122]

This piece of anecdotal history begs substantiation as empirical fact. Probably there was no more involved than the buying off of a troublesome but powerful local baron. The point of the story is that it illustrates the ebb and flow of power and authority in which the bandit recognized the superior standing of the Roman emperor who, in making his erstwhile enemy richer by precisely a million sesterces, effectively granted him part of the formal status requirement of a Roman senator.

The anecdotal and oral (mythical) materials of both popular and high culture that accrete about the figure of the bandit, since they are so central both to an assessment of the reality of the phenomenon and to the critical element of popular and élite perceptions, demand historical appreciation and explanation. Bandit tales are especially frequent in the popular literature of the upper classes, above all the novels of Achilles Tatius, Heliodoros and Apuleius. The fascinating insights and pictures they offer of popular imagination deserve much fuller study than can be given them within the scope of this article.[123] The one aspect of them which cannot be ignored, however, is the question of their historicity. The bandit tales reflect all the tensions between the literate upper-class traditions of their authors and the obvious oral popular milieu from which they were ultimately derived. There can be no doubt that the stories themselves mirror popular aspirations attached to an ideal figure of the bandit, but our enquiry must press the linkage between this popular desire for a figure of protest and empirical reality. To do this I propose to turn from the novel to an analogous type of story embedded in two histories: the legends of Julius Maternus and Bulla Felix recounted, respectively, in the histories of Herodian and Dio Cassius.

Julius Maternus, Herodian tells us, was a soldier serving in the

[122] Dio 56.43.3.

[123] See P. A. Mackay, "KLEPETIKA [*sic*]: The Tradition of the Tales of Banditry in Apuleius", *Greece and Rome*, 2nd ser., x (1963), pp. 147-52, and, above all, Winkler, "Lollianus and the Desperadoes", citing earlier work. The principal accounts in the novelists are: Apuleius, *Metamorphoses*, 3.27-4.23, 6.25-7.10; Heliodoros, *Ethiopian Story*, 1.1-33; Achilles Tatius, *Leucippe and Cleitophon*, 3.9 f. These novels are a veritable storehouse of information on popular perceptions of bandits, their motives, targets of attack, the structure of brigand gangs, bandit behaviour and values, and repression by the state. But they are so rich in this sort of detail that they demand separate treatment, which I do intend to undertake.

Roman army in Gaul in the mid to late decades of the second century A.D. In the early 180s he deserted and, as a man of notorious daring and success in his new life as a bandit, attracted other men to join him in his operations.[124] Herodian reports that Maternus "collected a large band of criminals" about him and began making raids on farms and villages in the Gallic countryside. Once he had accumulated a large loot from these forays he was able to recruit a larger number of "criminals" by promising each man a rich share of the booty. At some unspecified point in this rising level of violence associated with Maternus' actions the Roman state no longer regarded him and his men as bandits, but declared them to be "public enemies". The Maternus gang continued its attacks, but now on larger targets: on sizeable villages and towns, breaking into prisons and releasing men held in them, "regardless of their guilt" says Herodian. The "madness" began to afflict all Gaul and Spain. Even large cities were besieged.

When news of the outbreak reached the emperor Commodus in Rome he flew into a rage and sent threatening letters to the governors of the provinces accusing them of negligence and ordering them to mount a major campaign against the bandits. It cannot be purely fortuitous that the three Roman governors concerned were none other than the three men who were subsequently to confront each other in a contest for the imperial throne following the assassination of Commodus: Pescennius Niger in Aquitania, Clodius Albinus in Belgica, and Septimius Severus in Lugdunensis. On balance, *this* connection seems to suggest the central theme of the Maternus story as told by Herodian: it is a statist morality play in which the bandit (the anti-state) confronts the emperor (the state), albeit with a reversal of roles. The point is driven home by an unexpected twist in the legend in which Maternus suddenly decides to abandon his base in Gaul and to strike into the heart of the empire, into Italy and to Rome itself. It is precisely at this juncture that the story turns almost completely into myth and is suffused with dramatic and symbolic acts. Maternus is said to have plotted to put himself on the throne in the place of Commodus. The manner in which he hoped to challenge Commodus' legitimacy directly was by means of a devious plot, a *coup d'état*, but one devised by a trickster. He and his men were to enter Rome disguised as celebrants in the *Hilaria*, a Roman *mardi gras* held at the time of the vernal equinox.[125] At a given signal he and his men were to rush the emperor and cut him down. But Maternus was betrayed by one of his men before the plot matured;

[124] Herodian 1.10 f.

[125] For details on the *Hilaria*, see *Herodian*, ed. and trans. C. R. Whittaker, 2 vols. (Loeb, London, 1969-70), i, p. 65, n. 1; M. J. Vermaseren, *Cybele and Attis: The Myth and the Cult* (London, 1977), pp. 119 f.

betrayed, says Herodian, because his men "preferred a legitimate emperor to a robber tyrant". Before the actual day of the festival Maternus was supposedly arrested and executed, as were all his followers. During the *Hilaria* the people of Rome dutifully offered thanks for the safety and well-being of the emperor.

The Maternus legend contains elements of the historically possible and the ideologically necessary. The two streams intermingle and merge to form the whole story. The earlier part contains details that are credible as empirical events and which seem to be substantiated by independent data, though the widespread violence in Gaul and Spain in the late 180s and early 190s was assuredly not all caused by one man and his gang.[126] The latter half of the story is almost completely dismissable as empirical fact. It is most unlikely that Maternus, if he ever existed, voluntarily abandoned his home base in Gaul. Rather, the culmination of the legend is a wholly ideological scenario, though one marked by some credible details of bandit life (for example, the final betrayal). But these believable details are part of any historical novella. They do not make the events historical fact; they merely reflect common knowledge shared by Roman authority, for example, that *latrones* were habitually caught by betrayal. The climactic scene centred on the *Hilaria* highlights the inversion of normal lines of authority, with emphasis on the reversal of normal identity: emperors could become tyrants and bandits, and the latter could metamorphose into genuine rulers.

When Septimius Severus, then governor of Syria, finally emerged victorious from the internecine armed conflict of the early 190s following the assassination of Commodus to become emperor of Rome, there arose another big bandit, this time in Italy itself. His name was Bulla Felix ("the Lucky"). Bulla ultimately headed a band of more than six hundred men, and plundered Italy for a period of more than two years under the very nose of the new emperor in the first decade of his reign (just before A.D. 205).[127] Although he was pursued by many soldiers, with the emperor himself directing operations, Bulla "was never seen when seen, never found when found, never caught when caught", a piece of singular good fortune which the historian Dio attributes to Bulla's intelligence (in the C.I.A. sense). Bulla somehow acquired information on everyone who put into port at Brundisium in southern Italy, knew how many they were, and their portage. Of most persons whom he robbed and took prisoner, he confiscated only part of their wealth and let them go free. But he detained artisans and other skilled persons for a longer

[126] G. Alföldy, "Bellum desertorum", *Bonner Jahrbucher*, clxxi (1971), pp. 367-76, reviews the evidence; cf. Herodian 1.10.1-3 (Loeb, pp. 61-3).
[127] Dio 77.10 f.

time, made use of their expertise, and then let them go with a parting gift.

As with the Maternus legend, the Bulla Felix story is set within the context of a challenge to the formal authority of the emperor who is said to manage the hunting down of the bandit personally. The bandit has a ghost-like ability to escape detection and capture; he is a figure that cannot be grasped by unjust authority. Paralleling Maternus' "Robin Hood" deeds are Bulla's actions as a dispenser of justice and as a social leveller. Added to these are standard vignettes of daring and disguise. One such story involves the rescue of some of Bulla's men who had been captured and imprisoned. They were about to be condemned to death in the arena at the claws of wild beasts. Bulla disguised himself as a regional imperial official, went to the prison and declared that he needed some strong men to perform hard manual labour for him. The bandits were released into his custody. According to the legend Bulla carried the art of deception one step further. While in disguise he approached the Roman miltary officer who had been assigned the task of "exterminating" his gang. Bulla told the officer that he knew where Bulla could be found (not a lie) and said that he would betray Bulla if only the centurion would follow him to the bandit's hideout. The gullible officer swallowed the bait and advanced into a wooded thicket where Bulla's men promptly took him prisoner. Back in Bulla's camp there ensued a piece of serio-comic drama in which Bulla reversed the normal lines of authority. He donned the official robes of a Roman magistrate, climbed onto a tribunal and summoned the centurion, with his head shaven, before his "court". Bulla then delivered his sentence: "Carry this message back to your masters: let them feed their slaves so that they might not be compelled to turn to a life of banditry".

The emperor Severus, when informed of these actions, was livid with rage, mainly, it is said, at the thought that while his subordinates were winning full-scale battles for him elsewhere in the empire he himself was impotent against a mere bandit in Italy. The emperor then summoned a higher-ranking officer, a military tribune, whom he charged with the task of bringing Bulla in alive or facing the consequences. The tribune, having learned that Bulla was intimate with another man's wife, persuaded her to help the authorities with their enquiries (with, of course, a promise of immunity from prosecution.). The result, predictable in its process, was the betrayal of Bulla and his arrest while asleep in his bandit's cave.

The problem these bandit tales pose for the historian should now be manifest: their structural nature as ideological theatre. The fact that they are full of credible detail does not allay the overriding concern we must have about the reason for their composition and perpetuation by upper-class writers. One should not entirely dis-

credit reports of desertion from the army, attacks on the wealthy and powerful, acts of redistributive justice, and, finally, capture by betrayal. But there are too many other purely ideological elements in "the facts" to make the stories dependable in their entirety as empirical history. They do, however, offer clear and unambiguous insight into the very connection so emphasized by Hobsbawm: that of popular (and élite) perceptions. Taking the stories of Maternus and Bulla Felix, we might note the following continuities in this perception.

First, the bandit is represented as the opposite type to the (just) emperor. He is the ultimate locus of illegitimate power in society. Thus the big bandit often appears in the context of (and frequently in the immediate aftermath of) the usurpation of power by a new emperor whose legitimacy is always suspect. The latter must prove himself to be a *bonus imperator* and not a mere *tyrannus*. Or the bandit may appear at a critical point where the reigning emperor has reached a crisis of legitimacy, as in the case of Commodus who had become so unimperial in his conduct as to be susceptible to the charge of tyranny. The bandit is less a positively constructed alternative form of power than he is a symbol of what the emperor should be. He is an *imperator* "manqué". He is then placed in direct confrontation with legitimate central power (Claudius, Caracotta, Bulla, Maternus) and the conflict must find some resolution. In the case of strong central authority the emperor is never said to pursue the bandit personally: he does so vicariously through the agency of his legates and appointees.

The confrontation takes place within idioms and metaphors of power. The emperor is bested by a bandit who does not have direct access to the sort of machinery of force that the state does. So the bandit must defeat the emperor by evasion, deceit and disguise, in short by cunning and intelligence, both of which are counterposed to the tyrant's heavy-handed use of force. Images of violence and intelligence merge with psycho-sexual metaphors of manliness and sterility. The emperor who acts through representatives feels impotent, unable to exploit the power at his command to bring the matter to a conclusion. The emperor's impotency is contrasted with the bandit's personal power and virility. The final scene of arrest reverses these lines of power, either by betrayal or by formal recognition, in which elements of doubtful sexual identity obtrude.

The bandit is capable of reversing the lines of legitimate power directly, that is, to provide true justice by himself — a theme that emerges most graphically in the Bulla story in the capture and trial of the centurion. The centurion, head shaven, appears as a "slave" who receives Bulla's sentence: "Carry this message back to your masters . . ." in the double sense of political masters to whom the

centurion is subject and slave-owners whose interests he serves. "Feed your slaves so that they do not have to turn to a life of banditry". That is ironic in the light of what we have already said about the collusion between landlords and their slave-shepherds in the very region in which Bulla was operating. Yet it is not an entirely incredible injunction. Hobsbawm reports a carbon-copy case.[128] And Genovese, in his study of Maroon communities in the Americas, details an almost vebatim version of the warning.[129] The point, however, is not whether Bulla actually did or did not utter the very words, but that there is a moral ambiguity about the tales themselves; they serve the purposes of both popular and upper-class concerns. The dominant theme in them, as reflected in even the smallest component of them such as Bulla's injunction, is less that of rebellion and opposition than of reform and remodelling of society to fit an ideal pattern already imparted by its dominant class structure. But it seems unclear whether any real bandits actually espoused even a limited and traditional reformist programme, much less a more revolutionary one.[130]

In the light of the whole analysis of this article we may now return to some of its original concerns: the nature of the genesis of banditry, the structural definition of banditry as a *form* of social behaviour, and the question of protest and rebellion. Banditry has been shown to have been generated in very precise historical circumstances necessitating a specific political structure, the state, and the imperfect development of this same structure. Banditry exists only in these conditions and has no necessary connection with the phenomenon of class which both precedes the appearance of banditry and continues to exist long after banditry itself has disappeared as a characteristic form of social violence. It is that peculiar space left by the incomplete domination of archaic states that allows for the existence of an interstitial group of men who must be defined in relation to, and in

[128] Hobsbawm, *Bandits*, p. 55: Vardelli in Apulia in the 1860s ordered bailiffs to give bread to the labourers under their control so that they would not have to resort to a life of banditry.

[129] See E. Genovese, "Black Maroons in War and Peace", ch. 2 in his *From Rebellion to Revolution: Afro-American Slave Revolts in the Making of the Modern World* (Baton Rouge, 1979), pp. 51-81, at p. 56. A maroon leader tells the British captain who is pursuing him that the plantation owners ought to feed their slaves so that they would not be compelled to run away and swell the numbers of the maroon communities in the jungles of Surinam. The warning had both a practical aspect from the viewpoint of the maroon leader, and a moral one from the aspect of the slave-owning society. Bulla too may have reflected both concerns.

[130] See Hobsbawm, *Bandits*, pp. 26 f., where he emphasizes that if bandits have any "programme" of social action at all it is a wholly traditionalist one, a restoration of conditions of the mythical past. He specifies two factors that might turn this bandit activity into true revolutionary action: symbolic leadership and a connection with millenarianism. Both deserve closer scrutiny for the ancient world, though neither factor seems to have produced any revolutionary linkage with banditry — with the possible exception of the slave rebellions.

opposition to, the state. It is the availability of this space that allows these men to be defined as outlaws or bandits in contradistinction to common criminals. That some men enter this space consciously in rejection or abandonment of state society is largely immaterial. That individual acts of injustice and oppression may indeed have compelled some men to leave "state space" for this other world is, again, not terribly significant. These factors do not in themselves explain why that space is there or the phenomenon of brigandage. The number of the poor and oppressed who have been the victims of individual acts of injustice and who have sought revenge is countless. The question is: why do only very few of these become bandits? The mere fact of their victimization and response is not a sufficient explanation.

The explanation must lie in the structural aspect of determinate social and political formations. A study of the *structure itself* seems to reveal that it is not one particularly well suited to rebellion or resistance — at best of withdrawal or secession. The interstices themselves are determined by the presence and power of a state and *its* social classes. These spaces fall into two broad categories: those which are mainly external to the state and its society and with which it had a negotiated relationship (for example, Isauria) and those which were integrated with the state and its social systems. In the former, the "opting out", if it had ever actually taken place, was complete and did not form part of the in-society rejection of oppression. In the latter case the factor of co-optation was overwhelming. Only in exceptional cases of over-determination by a number of conjunctural factors, as for example in Judaea of the early first century, the Danubian frontiers of the third century, and Gaul in the fourth and fifth centuries, would the actual form of the space itself mutate from one type to the other, thereby allowing the bandit in the space to develop his power free of state constraints. But in these cases the bandit never becomes a figure of popular protest. Rather, he is a risen bandit like Maximinus the Thracian, a man who achieves state-like power and who mimics in every possible way the existing structure of state power all about him.

That the type of the *social* bandit existed in popular belief, imagination and communication is beyond doubt. All the literary and oral compositions of the period, in spite of their filtration through upper-class literary production, clearly reflect this popular desire. As we have attempted to show, the type is embedded in this literature not because it is mindlessly derivative of popular belief or for the sake of public entertainment, but because the image of the bandit was a useful one that could be exploited in contrasting just and unjust ideals of power within the ruling class itself. But barely beneath this use of the bandit as a foil to the tyrant, the unjust ruler

and the unfair judge, is a powerful image of fearsomely compelling dimensions generated by people who desired that some such man could be found. They desperately wanted a saviour from the present networks of power in which they were enmeshed, a man who could rescue them from their oppression and who could provide for a genuinely just social order, a paradise. And there may indeed have been, as Hobsbawm contends, a few men whose actions accorded with the popular model, or discrete and occasional acts by bandits that fit this category. But there is no evidence that they define the phenomenon itself. The importance of whatever exceedingly small proportion of bandits who acted like this is that of a further model or imaginative ideal. It is this *idea* that was a social protest, albeit a rather primitive one. As for the bandits themselves, the argument tends to indicate that they could not have been social rebels and, more important, that the phenomenon of banditry *per se* is not a type of social protest. Rather, it is a form of political *anachoresis*, leading from its smallest beginnings, over an unbroken trajectory, to its final form: the formation of another state patterned on an existing type.

Later, after due trial, Bulla was thrown to the beasts in a public arena to be torn limb from limb, one of those *summa supplicia* reserved for outlaws. His band of six hundred is reported to have disintegrated soon afterwards, so much did it depend on his authority alone. The legend, however, contains one final act involving Bulla just before his execution, probably as an epilogue to his trial. Like the rest of the account it is ideological, and its importance lies there, not in empirical fact, which it probably is not.[131] When Bulla was brought before the emperor's right-hand man, one of the better legal minds of the time, the praetorian prefect Papinian, the following

[131] Many historians seem to have taken the story as straight fact. But it obviously reflects an *idea* related to the distribution of power and to social stratification. Consider the following story in Augustine (a continuation of the epigraph to this article, *City of God*, 4.4): "For it was a witty and true rejoinder which was given by a captured pirate to Alexander the Great. The king asked the man, 'What is your idea in infesting the sea?'. The pirate retorted, with uninhibited insolence, 'The same as yours in infesting the earth! Because I do it with a tiny ship I'm called a pirate; because you have a great navy, you're called an emperor' ". The story did not, of course, originate with Augustine. He probably took it from Cicero who reported it in his *On the State*, 3.14, and who probably got it in turn from his Greek source, either Polybios or Poseidonios, probably the latter. Hence the Bulla vignette is a variation on a common theme — that of popular insistence on a just order and just rulership — that was picked up by the ruling classes for their own purposes. An analogous "scene" concerning the emperor Hadrian reflects the same concern (Dio 59.6.3): "When the emperor was on a journey a woman approached him and asked for his attention. Hadrian replied that he was too busy and had no time — to which the woman retorted, 'Then stop being emperor' ". The story was at first interpreted as a genuine episode (see F. Millar, "Emperors at Work", *Jl. Roman Studies*, lvii (1967), p. 9) until it was brought to the writer's attention that the same story was told twice elsewhere by Plutarch, of Philip II and of Demetrios Poliorketes, and by Serenos of Antipater: Plutarch, *Moralia*, 179 C-D; *Life of Demetrios*, 42.7; Stobaios, *Florilegium*, 2.13.48; see F. Millar, *The Emperor in the Roman World, 31 B.C.-A.D. 337* (London, 1977), p. 3.

verbal exchange took place: Papinian turned to Bulla and asked, "Why did you become a bandit?". Bulla, looking back at Papinian, retorted, "Why did *you* become praetorian prefect?". Obviously it was a general sort of question that many of the common people of the empire had on their minds, and within the context of banditry. That bit of dialogue, whether myth or not, embodies the problem they faced and which I have attempted to investigate — and to which there must be some answer if only *we* can face the questions put by the bandit and the prefect with honesty and candour.

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